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# CHURCH AND STATE

## A HISTORICAL HAND-BOOK

SECOND EDITION

A. Taylor Innes, Advocate

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FOR

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EDINBURGH:

T. & T. CLARK, 38 GEORGE STREET.

PRINTED BY MORRISON AND GIBB,

FOR

T. & T. CLARK, EDINBURGH.

LONDON: SIMPKIN, MARSHALL, HAMILTON, KENT, AND CO. LIMITED.

NEW YORK: CHARLES SCRIBNER'S SONS.

TORONTO: THE PRESBYTERIAN NEWS CO.

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# PREFACE TO THE SECOND EDITION.

I AM informed that a re-issue of this small volume is desired. Since the first edition, the question of Church and State has been broadly raised for Wales and Scotland. Behind these too there are aspects of that question causing difficulty in England, in Italy, in Russia, and in some other countries. Yet all these are mere fragments of one problem which the Christian world has for two thousand years been working out, on the lines and with the results which the following pages attempt to summarise.

A. T. I.

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# CHURCH AND STATE.

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## INTRODUCTION.

1. THE two most celebrated forms of association in history have been known by the names of **The State** and **The Church.** This volume does not attempt to enter upon either of these great fields, the literature of which has been enormous. It deals exclusively with the relation between the two Societies, their points of contact, collision, junction, and intersection. Even this intermediate field is vast; and it may be approached in two ways. On the theoretical side, the doctrinal and legal aspects of this relation have always had a fascination for thinking men, and the conflict of principles upon it fills many libraries. On the historical side, it has moulded our modern civilisation, and "the whole life and character of Western Christendom consists of the incessant action and counteraction of Church and State" (Ranke). It is necessary, therefore, to select a line of treatment. In these pages the question will be traced historically, and in the chronological order in which it has unfolded itself to the world.

2. It may be held that the Church existed before Christianity, and outside its pale. It is certain, at least, that every question and every collision which has occurred between Church and State in modern Christendom, might find in the earlier ages a parallel or an equivalent. But with so large a subject it is well to make a distinct start; and the Christian era may be accepted as the birthday of the Church.

3. Whether the Church existed prior to Christianity or not, the State did in its fullest vigour. It existed in all its forms, and especially in that which was most characteristic of ancient times—the City. But it varied from the small civic State (*polis*) of Greece, which according to Aristotle should never consist of more than ten thousand persons, up to the world-wide empires of the East. It was patriarchal, regal, despotic, oligarchic, or democratic; but in none of these forms was it held subject to what are now understood as necessary and constitutional limitations. In free republics as well as in tyrannies, it was almost invariably assumed that the individual had given up his whole rights to the State. Absolute power over minorities was conceded to the free State (even when denied to the despot or sole ruler), in a sense and to an extent from which the conscience in modern times revolts. Hence no *right* of toleration was acknowledged in the individual (even in religious matters), though the State might occasionally find it expedient to be tolerant. Against this State-supremacy over conscience (as against the parallel refusal of rights to the stranger and to weaker nations outside the State), a certain undertone of protest on the part of human nature may be heard in ancient times. But until the era of Christianity the claims and rights of the individual, as conceded in modern times, and in particular his rights as against his State, were never openly acknowledged or made effective. The private man was held bound to conform to the national association in religion and religious practice if required, as in more external matters. So long as this was the accepted opinion, no proper question of Church and State could exist. That question depends on the modern change of view as to the rights of conscience. But the modern change of view is itself a result of Christianity, and of the history of the early Church.

4. We may define the Church as *The Christian Society*. More fully, it is the society, instituted by Jesus Christ, of those who believe and worship God through Him. Men differ as to details; but it is admitted that Jesus left it in charge to His disciples, and

to all "who should believe on Him through their word," to confess His name, to acknowledge, assist, and love one another, and to join together in worship and in the participation of His sacraments. Of this society on earth Christ is held the invisible Head. In this the Greek, the Roman, and the Protestant Churches are agreed. The historical and other writings of the New Testament amply prove that it was also held, at least as strongly, by the apostles and others upon whom the duty was primarily laid to "go into all the world" and proselytize it.

5. It has been questioned whether the Church is essentially an invisible or a visible society, *i.e.* whether it properly consists of those, known only to God, who inwardly believe, or of those who, truly or otherwise, profess their faith before men, as by baptism. For the present purpose the question is of less importance. For it is admitted even by those who hold the theory of an invisible Church (consisting of true believers), that a primary and immediate duty of those who have faith themselves is to confess it, and that a second duty following upon this is to acknowledge as brethren those who do the like. The invisible society thus at once becomes visible. It does more, it becomes a *public* society. That is, its existence is not merely to be inferred from casual circumstances : it is to be proclaimed, avowed, and extended. The obligation of Christians not to dissemble their faith, to confess it, and to confess each other, had, as we shall see, the most important consequences for the world in the early centuries. But, in the first place, it made in each place, and throughout the world, a visible Church, — a community of men acknowledging each other as Christians.

6. This visibility, founded on the obligation to confess Christ and acknowledge fellow-Christians, relieves us from another large question. It makes it unnecessary for us to consider the particular forms of Church organization. In order to bring the Church into relations to the State, it is not necessary that it be

Congregational, or Presbyterian, or Episcopal, or Patriarchal, or Papal; all that is necessary is that it be a visible society. A particular congregation—"two or three gathered together" in one locality in the name of Christ to worship together, and obey His laws—is a Church. Some hold that this is the only body originally or properly entitled to the name. They make the congregation the unit, the mere multiplication or repetition of which, without any organization or interdependence, constitutes the Christian Church all over the world. Others hold that the universal Church is the unit, and that from it the particular congregations derive their powers and privileges. It is not necessary for our inquiry to assume either of these theories, or any intermediate one. The strictest "Independents" maintain the obligation of all Christians to recognise each other, and to hold communion "in so far as God gives opportunity." And the strongest partisans of a Church universal hold that Christians in each particular district are bound to act as its members, and to gather together there as a visible part of the universal society. Almost all Christians have been agreed that whether the Church be a local or a universal society, it is a public society. And as a public society it necessarily comes into relation with the State, no matter what its government is, or what either its doctrine or worship may be.

7. The State with which the Christian Church originally had relations was the greatest which the world has seen, and it was then at its highest point of greatness. When Jesus was accused before the procurator of Cæsar of making Himself a king, his judge represented the chief magistrate of a republic that ruled over the civilized world. For **Rome** in form was still a republic, and the emperor was no more than its first citizen, entrusted (as saviour of society) with an accumulation of republican offices and functions. But this centralized republic or empire ruled over a vast assemblage of States, of every type of government, including Palestine.

8. Rome, like other ancient cities, had its own religion and its own gods. The difference was that this city had come to rule over the nations of the earth. As it conquered these nations one by one, it respected most of their institutions, and in particular it tolerated the local exercise of their religions. So the religion of the Jews became a *religio licita*—a tolerated religion; but this was only for members of the Jewish race, and perhaps sometimes only for Palestine. Rome did not allow religions which were thus tolerated to proselytize outside their own domain; least of all among Roman citizens. Over them the civil law, *i.e.* the law of the city, ruled directly, while it had a certain supremacy even in the provinces, where local laws were in force and where the local religion was allowed to the natives.

9. This law of Rome enjoined the worship of the gods, and its negative side was expressed in the ancient words which Cicero gives among his *Leges Legum:* "Let no one have separate gods, or new gods; and let no one privately worship even foreign gods, unless they have been received by public authority." Hence ordinances against those "foreign rites"—*sacra peregrina*—which, when Rome came to have many provinces, tended to flow back into the capital. In accordance with this principle of State religion (*i.e.* religion as not merely recognised, but authorized, by the State) were the rules, long after recorded by one of the great lawyers of Rome,[1] which denounced death or banishment against those who "bring in religious beliefs or rites which are novel and foreign to usage and to reason, so as to disturb the minds of men." And when the author of the last and most terrible of the persecutions terminated it by an edict tolerating Christianity, the document assigned as the reason of the previous severities a desire to keep everything in the empire in strict accord with "the ancient laws and the public institutions of Rome."

10. Christianity was more irreconcilable with these laws than

[1] Julius Paulus, 5. 21. 2.

was the religion of the Jews. The latter held an ambiguous position, and its treatment by Rome varied accordingly. On the one hand, the Jewish was a strongly national religion, and as such was recognised and tolerated, especially by Cæsar and his successors. On the other hand, it claimed to be absolutely true, and so condemned all other religions. And this claim on the part of one people explains much of the "odium" attached to it. Christianity, at first confounded with Judaism, was soon found, unlike it, to aim at universality, as well as, like it, to claim exclusive truth. The peaceful character of the professors of the new faith, and their renunciation of national claims, were in its favour. But these were more than balanced, in the view of polytheists, by its essential aggressiveness. A religion which denied the gods of Rome was contrary to the laws of Rome, and as it never claimed protection as being merely local and national, it never could be "licit" or tolerated. And if the religion was unlawful, still more was the Church.

11. The Roman law allowed no unlimited right of association. "It is not permitted to men to form at their pleasure an association or a club, or any body of that nature." Many such bodies existed under the Roman power, but only in so far as expressly permitted. Some of them were of the nature of clans or family gatherings; others of the nature of guilds or trade unions; others, again, were very like burial clubs; while others were associations of the priests of the same divinity, etc. But "neither under the pretext of religion or otherwise" were they permitted to meet, unless the association was first made "licit" by the State. The early emperors restored the rigour of this law against associations, which had begun to be relaxed, and extended it to the whole empire. Under their rule the penalty of forming an illicit association is declared to be the same with that of seizing on the chief points of the city with an armed force, *i.e.* it was equivalent to high treason. This law, it will be observed, struck alike at the Christian Church, in so far as it was one association scattered

throughout the empire, and at each local association or congregation; and the fact that each of these was related to a great whole, was one of the strongest points against both. It may be going too far to hold, with some authors,[1] that this was the main cause of the persecution of Christianity by Rome; but it was one of the strongest and most permanent.

It was in a world-wide State of which these were the well-understood laws, that the Church and its Founder now made their appearance.

[1] "The Roman empire admitted no association within the State independent of the State (*dans l'Etat en dehors de l'Etat*). This point was essential; it was, in truth, the root of all the persecutions. The law of associations, far more than religious intolerance, was the fatal cause of the violence which dishonoured the reigns of the best of the emperors. . . . The Roman laws, like our *Code Civil*, attacked by this law an immortal instinct of the human heart. The cold hand of the State should not press upon the inner kingdom of the soul. Life and joy will return to the world only when our distrust of associations, that dreary heritage of the Roman law, has disappeared. Association independent of the State, but without destroying the State, is the great question of the future."—*Les Apôtres*, by Ernest Renan.

## CHAPTER I.

### THE PRIMITIVE CHURCH IN ITS RELATIONS WITH THE STATE.

TIBERIUS ruled as emperor when Jesus Christ, known for some years as a teacher and prophet of the Jewish people, was charged before Pilate, the procurator of Judæa, with "perverting the nation, and forbidding to give tribute to Cæsar, saying that He Himself is Christ, a King." The crime charged was known as *Majestas*, or treason against the supreme "majesty" of the Roman State. All the narratives bear that Pilate, commencing his examination with the question, "Art Thou the King of the Jews?" was answered in the affirmative, and yet came to the conclusion that the accused was innocent. This result almost necessarily implies some explanation such as is embodied in the memorable dialogue of the fourth Gospel.

"Jesus answered, My kingdom is not of this world. If My kingdom were of this world, then would My servants fight, that I should not be delivered to the Jews: but now is My kingdom not from hence."

This answer receives illustration from previous utterances of Jesus, and from the following centuries of Church history. It asserts a contrast between His kingdom and the kingdoms of this world, as well as between the instruments to be employed by them respectively. But it did not disown kingship: and—

"Pilate therefore said unto Him, Art Thou a king then? Jesus answered, Thou sayest it: I am a king."

This answer put it in the power of the governor to act against

his own half-formed conviction, and send the accused to the cross; and Jesus added—

"To this end was I born, and for this cause came I into the world, that I should bear witness unto the truth. Every one that is of the truth heareth My voice."

Pilate answered curtly, "What is truth?" and began a long and evasive struggle with the accusers, two points of which are of importance for our subject. Jesus having persistently kept silence from the moment when His judge appeared to act against his better knowledge, "Then said Pilate unto Him, Speakest Thou not unto me? Knowest Thou not that I have power to crucify Thee, and power to release Thee? Jesus answered, Thou couldest have no power at all against Me, except it were given thee from above." The acknowledgment that the power of the Roman magistracy was "given from above" appears again and again in early Christianity. On this first occasion it was not exercised as such power should have been. The accusers continued to clamour for a conviction. The judge still hesitated, and was finally decided by the skilfully suggested threat, "If thou let this man go, thou art not Cæsar's friend: whosoever maketh himself a king speaketh against Cæsar." The emperor, as we have seen, gathered up in himself the greater offices of the republic; and so to the old Roman watchfulness against treason was now added the personal suspicion of a despot.[1] Tiberius, in particular, used the treason laws continually against those who disobliged him; and Tacitus relates that when the provinces came to this emperor with complaints of any kind against their governors, they took care to throw in the charge of treason, "at that time the complement and crown of every lesser accusation."

[1] Dion Cassius preserves "a wise piece of advice," which Mæcenas, the Epicurean friend of Augustus, gave to the great predecessor of Tiberius, "Abhor those who make innovations in religious matters; and coerce them, not for the sake of the gods only, but because men who bring in new divinities stimulate the multitude to make changes in the State. Thence come conspiracies, seditions, and cabals,—things irreconcilable with the imperial power."

Pilate yielded to the well-chosen argument, ascended the tribunal, and there receiving (in answer to his bitter question, "Shall I crucify your king?") the historical answer, "We have no king but Cæsar," he sentenced to death by the cross Him who had claimed a kingdom not of this world.

For a time the visibility of the Christian Church was obscured by its relation to the people and faith of the Jews. The apostles showed no desire to take up a position separate from, much less antagonistic to, the religion of their forefathers. Rather, they urged that their gospel was the crown and divine development of the Jewish faith, and for a time they called upon their nation to receive it. "The Way," as the new brotherhood was vaguely called, formed almost a Church within a Church; visible by its confession of Jesus as the Christ, but not as yet separate in public worship and scarcely in organization. Soon, however, the rejection of their message (especially as coming to all men independent of nationality) by both the masses and the authorities of Judaism, forced them into separate positions and more distinct organization. The relation of the Christian Church to the Jewish civil authority—in so far as civil authority was left to their State—was thus very peculiar. And as it was also transient, it may be here omitted.

A.D. 64.—Nero was emperor. Within a single generation the religion which confessed Jesus as Lord and Christ had spread along the coasts of the Mediterranean, and its members were now so numerous in Rome as to be the objects of popular suspicion. Nero took advantage of this to divert towards them the charge of having set fire to the city, and to institute a short but most savage persecution. It does not appear that, as Tertullian believed, any special "law" was at this time enacted against Christians as such. But Christianity henceforth became notorious under that name as an unlicensed religion, branded in the capital of the world with imputations both of secret flagitiousness and of hostility to mankind.[1]

[1] The terrible words in which the noblest of historians records his belief in the calumny, a whole generation after its invention, can never be forgotten: "This wretched superstition, repressed for a moment by the death of its Founder, soon broke out again, not only in its birthplace, Judæa, but in Rome

About the year A.D. 110 commenced the most illustrious and prosperous period of the empire, with a succession of able and wise Cæsars. At its opening under the Emperor Trajan, the relation of Christianity to the law was more definitely ascertained. This is preserved to us in a report from the younger Pliny, who had been sent as governor to Bithynia. On arriving there he found great numbers accused of being Christians, for the faith had spread in the province so that the temples were deserted both in town and country. Pliny examined them, some by torture, and wrote to the emperor that they confessed no secret flagitiousness or crimes hateful to humanity (such as even his friend Tacitus had believed); but that, on the contrary, the Christians were said to bind themselves in their assemblies to avoid theft, fraud, falsehood, and adultery, while they met to sing hymns to Christ as God. The course he had taken with them, and which he submitted for the imperial approval, was to give the accused the option of escaping by sacrificing and cursing Christ: those who thrice declined he ordered for execution, "not doubting that, whatever their faith might be, pertinacity and inflexible obstinacy deserved punishment." The emperor, by his Rescript (which had now the force of law all over the empire), approved of the course thus taken. It appears, therefore, that the law of Rome, even as administered by a humane and intelligent proconsul, and confirmed by a wise and able emperor, made the profession of Christianity a capital crime,—made it so even when such a profession was relieved from the popular charges of atheism on the one hand, and immorality on the other.[1]

itself,—that centre of confluence and celebrity for all that is atrocious and all that is shameful. Those who were first arrested and confessed pointed out a huge multitude of their brethren, and they were found guilty, not so much of setting the city on fire as of hatred of the human race."—Tacitus' *Annals*, xv. 44.

[1] The ground of punishment was partly obstinacy in a religion which had not the sanction of the State, and (as a similar, though perhaps separate charge) adherence to a community which was not recognised or incorporated by the State. Trajan laid great stress on the Roman laws directed against

During the period **A.D. 110–250**, that of the greatest strength and magnificence of the Roman empire, the common law of the State remained as it had been declared by Trajan—hostile to Christianity as an illicit religion, and to the Church as an unlicensed association. But in general it was only occasionally and locally enforced, and the illicit association spread through the world. Much in this matter depended on the disposition of the ruling proconsul; much also on the mood of the populace. Public calamities and portents were dangerous to the Church: "if the Tiber overflowed, if the Nile did not overflow," a cry was raised, "The Christians to the lions!" So it was especially during the reign of the famous Stoic, Marcus Aurelius, who, however, himself fostered a very general persecution (A.D. 166), partly by the familiar means of *inviting* informers, and partly by his law,[1] that those should be banished to an island who did anything "to terrify the light minds of men by superstitions about the divinity." Under his successors there was again a respite; but in A.D. 202 Septimius Severus denounced the punishment of death against converts to Judaism and Christianity everywhere, and directed that those in Rome who joined unlawful *collegia* should be accused before the Prefect of the city. His successors, again, were more friendly to the Church; yet it was in the time of the tiger-like Caracalla, mistakenly supposed to have been "brought up on Christian milk," and who admitted the whole

clubs and societies. Only a few years before he had refused the petition of Pliny to allow a trade union of a hundred and fifty stone and metal workers (*fabri*) to be incorporated in Bithynia for the purpose of constructing some fire-engines. "Whatever be the occasion of such things, and whatever name we give them," he wrote, "they become leagues or clubs" (*hetæriæ*). This prohibition of clubs and associations was published in his province by Pliny, and, no doubt, by other governors in theirs. In an edict Pliny relates how some Christians, whom his threats caused to apostatize, pleaded that from the date of that publication they had discontinued their common worship, or, at least, their custom of partaking in a meal on the evening of the Lord's day, *i.e.* they had discontinued to share in the sacrament of that society or Church which the law refused to acknowledge.

[1] Dig. 48. 19. 1. 30.

Roman world to the citizenship, that the famous jurist, Ulpian, gathered into a lost chapter the whole laws against citizens who confessed Christianity.

The law remained, and though sentiment in some respects was changing, it did not change the practical result. Cato and Cæsar had denied a future life in full Senate; Augustus, with equally little belief, had tried to make the old State religion again fashionable.[1] In the second century it still ruled externally, but internally it was wholly undermined. Neo-Platonism and Stoicism were equally hostile with Christianity to the belief of polytheism; but the professors of these philosophical systems, as of the new mystical religions of the East, did not scruple at external conformity. And external conformity was all that was now required. More and more the religion of the State became simply worship of the State by its members. Its "majesty" was impersonated in the "august" emperor, and his cult soon became the one universal rite among the varied polytheisms of the world. The progress was gradual: Augustus, when Horace prayed him to "postpone his return to heaven," scrupled even at the title of Lord (*Dominus*); Domitian, his tenth successor, claimed to be called "Our Lord *and God*" (*Deus*). The milk on which Caracalla was fed by his mother, Julia Domna, the cultured wife of the persecuting Severus, may be gathered from the romance of Apollonius, published by her desire. The Platonic saint wanders through the world in those pages, rejecting image-worship and bloody sacrifices; but he scatters incense on the altars of the sun, and accepts the emperor as head of Church and State. This last worship was the test. The humaner proconsuls avoided asking a Christian to worship a "demon;" but they condemned him without scruple if he refused incense to the altar of

[1] To this time beyond any other perhaps belongs what Gibbon, following Varro, has so admirably expressed, "The various modes of worship which prevailed in the Roman world were all considered by the people as equally true, by the philosopher as equally false, and by the magistrate as equally useful."

Cæsar. Celsus, the enemy of the new faith in the days of Aurelius, admits that a Christian should die rather than renounce his faith in immortality. But why, he urges, should he not adore the emperor, and bow to the gods whom the emperor and the State have for ages sanctioned? The utterance of imperial Rome to Christianity was thus at all times, "You have no right *to be*" (*Non licet esse vos*).

Under this cold shade of a universally hostile State, the new society of men who gathered round an invisible Chief spread with ceaseless energy. "We are but of yesterday," said Tertullian, addressing the Roman power before the end of the second century, "and already we fill all that belongs to you—your cities, islands, fortresses, towns, and assemblies; your camps even, your tribes and decuries, your palace, your senate, and your forum." And the Christian society was essentially cosmopolitan, much more so than the Roman State itself. As it is put in one of the Apostolic Fathers:[1] "Christians are distinguished from other men neither in country, nor in language, nor in custom. They neither inhabit cities of their own, nor do they use any peculiar dialect, nor do they lead separate lives. . . . They dwell each in his own fatherland; but they do so as sojourners. They partake of all things as citizens; but they suffer as if they were strangers. Their own fatherland is foreign to them, and they find a fatherland on every foreign shore." The early Christian precept, to submit to the powers that be as ordained of God—his ministers who are a terror to evil-doers and a praise to those that do well—was universally and rigidly obeyed, even in the midst of keen persecution. Whether Christians could go farther and accept civil and military offices, was held a much more doubtful question. In the exercise of all such offices, as in the public games and feasts, the recognition of Pagan religion and rites was inevitable; and it was the reluctance to accept such doubtful honours which made them reproached as a secret and darkness-loving people[2]

[1] Epistle to Diognetus.

[2] Natio latebrosa et lucifuga.

in the glare of the Roman world. But to the demand of Celsus that the Christians should accept civil office, each in his own city, Origen replied, "In whatever city we are, we have another city builded upon the word of God; and we require those, who by their gift of teaching and by their pious life are competent to the task, to undertake the administration of the offices of the Church." The Christian republic seems to have been at no time and in no sense a secret society, except on the few occasions when the passive hostility of the law was exchanged for active persecution. It was not indeed national, and might be said to be opposed to nationalism.[1] But it was essentially public and cosmopolitan; it called upon all men, from the senate and the slave-market alike, to join in one faith, and one hope, and one baptism; and it provided a recognition and bond of union for all. The *tessaræ*, or tokens by which Christians on arriving in a city made themselves known to the faithful there, assumed after some time a fixed form—as "letters of communion;" and every such epistle, while it certified that the bearer had been received into the fellowship of the Church universal, became also a new thread woven between the congregation from which he departed and that to which he came. The Church thus became, to put it at the lowest, a world-wide confederation or association, each member of which was bound to every other by indissoluble ties.

**A.D. 250-300.**—Hitherto there had been no universal persecution; but in A.D. 250 Decius ordered all Christians to be sought out and required to sacrifice, under pain of death. Imprisonment and torture were thereupon freely used throughout the empire; till in A.D. 259 Gallienus published two edicts of toleration similar to those to be afterwards noticed. Whether these really changed the legal position of the Christian Church, seems doubtful. They were probably mere indulgences. Yet they ushered in a new

[1] So Stoicism, which about this time produced its noblest disciples, held that separate or independent States were an absurdity; and that the whole race ought to be one community.

period of peace and prosperity, which lasted till the end of the third century.

Before its close the Christian republic or confederation—described, however, by its members as rather a kingdom (of an unseen king)—was certainly co-extensive with the Roman world. It had also become much more distinctly one visible and external institute. This was closely connected with the advance by this time undoubtedly made—whether it be regarded as a development or a corruption—in the position of the Episcopate. Cyprian, in the middle of this third century, popularized the idea that the bishops, as distinguished from the body of elders, and especially the bishops of the metropolitan towns and apostolic seats, represented the unity of the Church, each for his own district; while conjointly they were proclaimed as the successors of the apostles and the head of the living Christian body. Their dioceses generally coincided with the Roman districts and prefectures, and everywhere the Church had begun to run into the mould of the empire and to imitate its organization. Long before this time, too, its congregations had come by some indulgence to possess property,[1] and an incident which now occurred may be used to illustrate how inevitable is a certain connection between Church and State, even when these bodies are most desirous to be separate.

Paul of Samosata, a brilliant and worldly prelate, was bishop of Antioch, one of the great Christian centres. Certain speculative errors having come in aid of the dislike felt for his manner of life, a council of the neighbouring "bishops, elders, and deacons" declared him no longer bishop, and announced the fact to Rome and Alexandria and the Church at large, inviting them to acknowledge the successor whom they named. Paul, however, having probably many supporters in his own city, and certainly enjoying the friendship of Zenobia, the Palmyran queen, maintained that he was still the bishop, and refused to depart from the church-house (*domus ecclesiæ*). Aurelian had at this time, A.D. 270, succeeded to the empire, and the question was brought before him, from which side does not appear. He resolved to follow the decision upon it of the bishops of Rome and Italy; and as the

[1] Probably by means of *Fideicommissa*, or private Trusts.

result, Paul was, Eusebius says, driven out of the Church by the civil power. It is the sort of incident which recurs, in innumerable forms, in every succeeding age and country, but the distinctions involved in it are perhaps more obvious and less complicated than at a later date.

1. If the church-house was the official residence of the bishop, or the place of Antiochian worship, its possession as such, being claimed by both parties, was a civil question, which could not be settled by the parties themselves without a breach of the peace, or a reference to some judge. But in absence of any judge agreed upon by the parties, the preservation of peace and the settlement of the question (first of interim possession, and then of continued possession and property) fell under the jurisdiction of the emperor, and was proper for his decision.

2. The emperor did not refuse to decide between the claimants (as his predecessors would have done before the Christians were so far tolerated). But if he was to decide rightly on this merely civil question, he could only do so by inquiring into the *Church facts*, upon which that civil question turned.

3. How far Aurelian's inquiry extended does not clearly appear. In order to decide the possession of this church-house, he must have at least put the question to himself, or to the assessors whom he called in to assist him, whether Paul was still bishop of Antioch or had been really deposed. Even this involved a certain investigation into the constitution of the Christian Church, and into the power which that constitution gave to its tribunals. But he may have gone no further. Such a limited inquiry (with or without the help of Italian assessors) might have resulted in a clear conclusion, that Paul had, or had not, been removed from his bishopric by the proper Church judicature (without any inquiry into the question whether the grounds of removal were right or wrong). And that conclusion alone might have been enough for the emperor's decision of the question of property or use.

4. He might, no doubt, have gone further, and have inquired, with or without episcopal help, not only whether Paul had been really, but also whether he had been rightly, deposed. This might have been necessary in order even to his decision of the question of property, had he found that there was no authority in the Church itself to which the bishop was bound to submit. It was not likely that he should find this a blank, and it would have been awkward in any case that, for want of a Christian tribunal, a heathen judge should set himself to decide whether the morals and doctrine of a Christian bishop were according to Christianity. Yet it would have been necessary in such a case to do so in the interests of justice. The Church could only complain of his action as unjust, if, in order to make himself the judge, the

emperor had reviewed and reversed the judgment of a Christian tribunal which had been submitted to by the parties, or had declined to remit the case to such a tribunal, though admitted to exist, and to exist for the purpose.

5. However far the emperor's inquiries might extend (and every judge has the power of inquiring as far as seems to him necessary in order to his conclusion), that conclusion was undoubtedly only accepted and submitted to by the Church on the civil question of property or its use. On that point his decision may have been right or wrong, but it was the decision of the proper and final authority, who was in such matters to them, as to their apostle, "the minister of God." But, as we have seen, there were Church questions upon which it was necessary for him to form an opinion in order to his reaching that conclusion. On these questions, also, he may have been right or he may have been wrong. But on the question of Paul's heresy, or of Paul's bishophood, the decision of the emperor, even if true and arrived at with the very best advice, was never held by the Church to be binding upon it; while if false, or contrary to the belief of the Christians or their tribunals, it was as a matter of conscience rejected. Yet on questions such as Paul's house in Antioch and its occupancy, his decision, though possibly equally wrong, and perhaps founded on exactly the same error as to Church facts or doctrines, seems to have been at all times promptly obeyed by the Church, as a matter not of necessity merely, but of conscience. On such matters they said with their apostle, "I stand at Cæsar's judgment-seat, where I ought to be judged."

6. It is plain that the same kind of question may have arisen in many places and in many ways while Christianity was outside the State. In every town in Europe and Asia, questions must have occurred between the little Christian community and those outside, whether Jews or heathen; and these last, as in the days when Gallio was Deputy of Achaia (Acts xviii.), might at any moment draw their Christian neighbours "before the judgment-seat." Gallio, indeed, refused to be judge of the abstract question "of words and names and their law" which they thrust upon him. Yet even he, as the good-natured representative of the haughty justice of Rome, admitted that if it were a matter of tangible wrong—ἀδίκημα—it would be reasonable that he should hear the cause. And had he done so, he would have found it difficult to set the wrong right, without knowing the facts upon which it turned. Yet in all this he would remain a heathen judge outside the Church, dealing with civil matters in which the Church was interested, as any other body might be. But if he had attempted any regulation, positive or negative, of the Church's internal administration, or proper Church action, it would apparently have been at once disobeyed. Even Paul the Church no doubt held

to have been driven out of the church-house by the emperor, but out of the Church (if at all) by the Church itself.

7. The sentiment of the Church, we must remember, was from the beginning strongly against going to the heathen tribunal, even as to matters on which that tribunal might properly judge. It was the same apostle who in Corinth heard Gallio say, "I will be no judge of such matters; but if there be any question of wrong, or wicked lewdness, reason would that I should bear with you," who wrote to the congregation there rather to suffer wrong than to go to law with each other even upon matters "pertaining to this life." The outlawed position of Christianity, too, during these three centuries, was practically a protection against this often happening, and, of course, still more against the Church referring properly Church questions to the State. It is all the more instructive, therefore, to find one case like this at Samosata, which shows that, after a longer period of toleration than usual, men were found, even in the pre-Constantine time, desirous to get the civil power (when they believed it to be on their side) to enforce their Church views. The story is told us by Eusebius of Cæsarea,[1] the friend and biographer of Constantine, an honest and warm-hearted sycophant who did all he could in later days to bring the Church to the foot or the side of the throne. But during the greater part of the three preceding centuries—"the most heroic episode of the history of humanity," as Renan calls it—the Church, while scrupulously obedient to the civil power in civil matters, was saved from servility by persecution. Even Aurelian before his death departed from his early quasi-toleration; and the more Roman any Roman emperor was, the more was he expected to enforce the established law against the proselytizing and disintegrating association. In the days of one of the greatest of the whole mighty line, this matter, like many others burdening the perplexed and unwieldy empire, came at last to a head.

**A.D. 303.** — Just at the beginning of the fourth century, Diocletian, still the lord of the Roman world, though with two Cæsars and two Augusti under him, suddenly issued a series of edicts intended to destroy Christianity altogether. By these enactments all Christian assemblies were prohibited; all churches were to be demolished; all copies of the Scriptures to be burned; all Christians who held rank or office to be degraded; all of whatever rank to lose their citizenship, and be liable, like slaves, to the torture; while Christian slaves were to be incapable of

[1] *Historia Ecclesiastica*, vii. 30.

receiving their freedom. Soon after an order appeared, under which all the bishops and clergy were to be thrown into prison, and while there compelled to sacrifice. And this was followed in A.D. 304 by a final edict, by which all Christians everywhere were ordered publicly to worship the gods—an order carried out against individuals in the great cities by a careful scrutiny, and under the usual penalties of torture and death. This was the last and greatest of the *persecutions*, a word properly enough applied to special proceedings against the Christians and their faith, whether these proceeded from local governors, or, as in this case, from the palace. For they were all of the nature of *following out* against individual Christians the existing general law against the body, a law which even Trajan had not enacted, but only declared, and which the wisest and ablest emperors were not wrong in believing to be bound up with the old constitution of the State.

But the great change was at hand. And it was in the first place not the establishment of Christianity, but the toleration of it and of all religious beliefs and worships.

## CHAPTER II.

### CONSTANTINE AND THE CHRISTIAN REVOLUTION.

DURING the fourth century the Roman world passed through a mighty revolution in the adoption of Christianity by the State as well as by the people. As regards the State, the change must be held to have been rapid, for it was a change from one extreme to another. In A.D. 311 the empire was actively persecuting Christianity. Seventy years later the same State, by the edicts of Theodosius, commanded all races embraced within it to practise the Christian religion in its purity, threatened the imperial vengeance against those who dissented, and proscribed the characteristic rites of Pagan worship. Within so short a time had the great *Orbis Romanus* swung from one extreme to its opposite. But a world which turns on such vast poles moves gradually even when it does not move slowly. There were successive stages in the revolution, which may yet be traced in the legislation of the time. And they are of great importance for all who study the question in modern times—of more practical importance for us, probably, than the inevitable tendencies of that age permitted them to be for those who took part in them. It is only now that the world is free to work out the problem which Constantine had presented to him. But it is sometimes forgotten that the problem *was* broadly presented to him and his time, and that its difficulties were understood and acknowledged even when not overcome.

The most remarkable document on the relation of the Pagan

State to Christianity—more remarkable even than the rescript of Trajan to Pliny—is the edict which, in **A.D. 311**, closed the last great persecution. For it was primarily the **Edict of Galerius**, the fierce Dacian soldier, at whose instigation Diocletian, his father-in-law, commenced the attempt at suppression. But it bears the names also of the other Cæsars, Constantine and Licinius. And while it justifies the motives which had originally led to that most savage and persistent attack, it confesses the futility of the attempt,[1] and extends toleration both to individual Christians and to their churches. Yet what is conceded is a mere arbitrary toleration (*venia*, *indulgentia*), grounded on special reasons rather than on general principles.

"We," the Cæsars say, "have up to this time desired to regulate everything according to the ancient laws and public discipline of the Romans, and in particular to provide that even the Christians, who had left the religion (*secta*) of their parents, should return to a better mind. . . . For we found them so filled with self-will and folly as not to follow those institutions of the ancients which their own fathers had set up; but they were now, each according to his own will and pleasure, making laws for themselves to observe, and forming associations among the various nations. But when at last our decree came forth, that they should return to the institutions of our ancestors, many of them were subdued by their danger, but many also were rather disturbed. And, seeing that a large number have still persevered in their determination, and observing that these neither show the due worship and devotion to the gods, nor worship the God of the Christians, we, in the exercise of our tender clemency, and according to our unceasing custom of extending pardon and indulgence to all men, have come to the conclusion that the most frank and open toleration[2] should be extended to them also, to the effect that they may now again be allowed to be Christians, and gather together in their societies,[3]—provided, however, that they take no action against the religion of the State."[4]

Had the policy established by this edict become permanent, we

[1] The Church, said the Huguenot Rivet to Francis I., is "an anvil which has broken many hammers."

[2] Promtissimam indulgentiam.

[3] Ut denuo sint Christiani, et conventicula sua componant.

[4] Contra disciplinam.

should have had Paganism remaining the favoured and *established* religion of the State, while Christianity enjoyed *toleration*. And the toleration would have been twofold—to individual Christians, whose *religio* was thus no longer illicit, and to the Church as a body or bodies, now no longer struck at by the law against unlicensed associations.

But greater changes were at hand. **Constantine**, the brilliant young Cæsar who had succeeded Constantius when he died in the city of York, now came rapidly to the front. Like his father, he had been brought up in Neo-Platonism, and was disposed not merely to tolerate the two contending faiths, but to combine them. In A.D. 312, after the death of Galerius, Constantine crushed the forces of his rival Maxentius in a battle at the Milvian Bridge, outside the walls of Rome. And on this occasion his soldiers seem for the first time to have borne a banner with the sign of the cross, which, as one of his friends tells us, had been held out to him in a dream, or, as another says, in a noonday vision, as the pledge of victory. On becoming master of Rome, however, Constantine at once accepted the office of Pontifex Maximus, and for many years after retained a great attachment to the old worship of the sun,—a romantic allegiance to Apollo being perhaps suggested by the radiant locks of the royal votary, as well as by the tendency of his school to regard the orb of day as the only worthy image of the invisible Divinity. Immediately after he became sole emperor of the West he seems to have combined with Licinius, who controlled the East, to issue an intermediate edict of toleration. Its terms are not certain, but it probably resembled the more celebrated one we are about to notice.

In the year **A.D. 313** the two emperors met in the north of Italy, and issued for the whole Roman world the **Edict of Milan.** In this enactment the toleration of the Christian religion is made part of a universal toleration of all religions, and it establishes absolute freedom of worship. The motive stated, however, is not

any principle of indifference on the one hand, or of equal justice on the other. It is the conviction that all religions are ways of worshipping the one God, whom the emperors should render propitious. The involved and roundabout phrases of the edict may partly be explained by its running in the name of two rulers, one a Pagan, the other a philosophic Christian. But Constantine's was undoubtedly the ruling mind of the two, and the unaccustomed phrases are probably also a reflection of his eclectic thinking in matters of faith. The most important part of the Milan Edict runs in these terms :—

"We believe that among the very first things to be settled are what relate to the reverence due the Divinity,—an enactment which may give both to the Christians and to all others free power of following whatever religion each man may have preferred; that so whatever of divine there is in the heavenly seat may be pacified and be propitious to us, and to all who are set under our authority. Therefore this course we take to be dictated by wholesome counsel and most right reason, to hold that the absolute power is to be denied to no one to give himself (*lit.* 'his mind') either to the worship of the Christians, or to that religion which he thinks most suited to himself,[1] that so the Supreme Divinity, whose worship we cherish with free minds, may be able to show us in all things His wonted favour and benevolence. . . . We have given free and absolute power to these Christians of exercising their own religion. And as this indulgence has been granted to them, so you understand that a similarly free and unrestricted power is, with a view to the peace of our time, conceded to all others as to their own religion or observance, that each may have the free liberty of the worship which he prefers; for we desire that no religion may have its honour diminished by us."

So far the edict is in favour of individuals. But as the indulgence of Galerius tolerated not only Christians, but also their "conventicles," so the Milan Edict goes on to deal with Christians as bodies or corporations. It provides that where their churches had been taken from them and sold, either directly by the public Fisc, or by others, they should at once, and without any consideration being demanded, be restored *corpori Christianorum* (to the body of Christians), indemnification being promised from the public treasury to individuals who thus suddenly lost property. It adds that the Christians were known to have not their meeting-places only, but "other things," belonging to them in corporate

[1] Religioni quam sibi ipsi aptissimam esse sentiret.

right—to their churches rather than individuals.[1] These also were to be restored "to the said Christians, that is, to their body and assemblies (*conventiculis*)."

If the edict of Galerius made Christian societies no longer illicit or criminal, this of Constantine at Milan gives them the acknowledgment and sanction of the law. It recognises the Christian Church, perhaps as one body or corporation; certainly as a world-wide union of congregations. But with regard both to individuals and societies, "this rescript contained far more than the first edict of toleration published by the Emperor Galerius. By the latter, Christianity was merely received into the class of the *religiones licitæ;* while this new law implied the introduction of a universal and unconditional religious freedom and liberty of conscience—a thing, in fact, wholly new" (Neander).

Two points in this great transaction deserve to be noticed, as raising a curious historical problem.

1. It was the chief act of disestablishment recorded in history. Paganism was by the edict disestablished at a stroke throughout the civilized world. But this was done only by putting it on an equality with other religions before the law, and the edict itself anxiously professes to attempt no "detraction" of the honour due to any form of faith.

2. No religion is established by it. No religion is endowed by it. The enactments in it in favour of Christianity are merely a restitution to its professors of what had been taken from them, and an admission of their worship to the common freedom granted to all others. Constantine, indeed, contrary to the popular idea, never established or professed to establish Christianity. And not till two generations after this date, when his sons and their successors in the purple had all passed away, do we find a statute which may fairly be represented as the act making Christianity the established religion of the empire.

[1] "Ad jus corporis eorum, id est, ecclesiarum non hominum singulorum pertinentia."

It is one of the most curious problems in history, What would now be the condition of things had the Roman empire persisted in this policy of religious equality formally inaugurated in the year A.D. 311? But it is an inquiry curious rather than useful. The facts of the world at that time made any such persistence most unlikely, if not impossible. And some of these facts are reflected in the Edict of Milan itself. (1) It does not proceed upon any *right* on the part of the people to freedom of conscience or of worship. It proceeds upon the convictions and will of the emperor, and his motive is, that he may be divinely prospered. It is thus a purely despotic enactment in its grounds. (2) The personal conviction founded on is, that the Divine Being is pleased with worship, whether it be Christian or polytheistic. But this eclectic view, though long held by Constantine, was rejected by both the great communions with which he dealt, and by the mass of his subjects. (3) It follows, that in the event of Constantine or any succeeding emperor coming to think as they thought (and whether he came to lean to the Christian or to the Pagan side), he might be expected, on the despotic principles of this very edict,—it would, indeed, on those principles, probably be his duty,—to establish the religion which he had come earnestly to believe, and to suppress the other. And if this were his duty, it would be so irrespective of the question whether his subjects, or the majority of them, agreed with his religious convictions. And this was no mere theoretical danger. Despotism was the great and fatal characteristic of the time. Christianity was born into the Roman world at the moment when that world had just exchanged the republic for the empire. And now it was exchanging the empire under constitutional forms for one of open and undisguised absolutism. The imperial power, which for three centuries had been accompanied, but not restrained, by republican traditions and formalities, was at this very time migrating to its Eastern seat, and had already surrounded itself with Oriental servility and adulation. The change in this respect had commenced before the days of Constantine. "From the

accession of Diocletian, the government becomes avowedly a monarchical autocracy, and the officers by whom it is administered are simply the nominees of the despot on the throne" (Merivale). The Imperator of a free republic had become the Dominus of a bureaucratic empire.

Such an age was one of the most unlikely in the history of the world for any of the principles of "representative government" to be originated. Accordingly, the question was never even raised whether the people of the empire had authorized, or wished to authorize, their ruler to settle their religion. Still less, of course, was room made for the question of modern times, whether the people themselves have the right to settle this question by a majority for their minority. The whole matter would be settled by the personal convictions of the ruler. No doubt the ruler in such cases is immensely influenced by the stream of feeling around him. In the present case, Constantine, in addition to his eclecticism, had the nerve of conscience touched by the heroic suffering of the Christians, which he had often witnessed in Diocletian's pretorium. But when these Christians, with their intense convictions, should have themselves become a victorious majority, how long would the Christian ruler be able to keep his official neutrality and equal-handed justice?

This tendency of the time was the real danger, and not, as we shall see, the personal disposition of Constantine. That great ruler has indeed never had justice done to him in this matter. Throughout his life he honestly strove to keep the pledge which he had given, and when his Christian convictions became more intense and definite than they were now, his sense of the duty of toleration became at the same time (a rare thing in the history of mankind) more vivid. It will be our work in the present chapter to trace the steps by which the empire which persecuted Christianity before A.D. 311, which respited it in that year, and in A.D. 313 admitted it to a general liberty of worship, proceeded to favour, to endow, and to establish it, and at the same time to discountenance or persecute other worships and faiths. But we shall

find that in the earlier part of the century—during the long reign of Constantine—there was little injustice or intolerance, and there was no reversal of the Edict of Milan. At the same time there was change, and it is most interesting to mark the cautious steps of legislation by which the pure and humane spirit now glowing in the minds of men left its mark year by year upon the colossal wisdom and selfishness of the old Roman law.

We confine ourselves, in the first place, to the time during which Constantine was emperor of the Western world alone. In A.D. 313, the first year of universal freedom, a law, confirming one also by Constantine of the previous year, gave Christian "clerics" the freedom from municipal duties already enjoyed by heathen and Jewish priests. In 315 it was forbidden to brand men condemned to the arena or the mines on the face, for the human face is modelled on the "heavenly beauty;" and, more significant still, the "ancient and dreadful punishment" of the cross or gallows, with leg-breaking, is abolished. In the same year a very unequal law (the foretaste of centuries of intolerance to come) menaces Jews who stone Christian converts from Judaism with death by fire, while converts to the synagogue from the outside are threatened with "deserved pains." In a law of 319, Constantine, like several of his heathen predecessors, drew an important distinction between public Pagan rites and those which, being secret, were often the cover of conspiracies. Haruspices and all priests were by it absolutely forbidden to pass the threshold of any private man's house. On the other hand, public sacrifices are expressly allowed. "They who desire to be slaves to their superstition have liberty for the public exercise of their worship. . . . We do not forbid the rites of an antiquated usage to be performed in the open day." Already the state of matters was the converse of what it was in the days of Galerius, only six years before, when it was the Christian religion that was tolerated, but denounced in the act of toleration. And, though the new toleration may be said to be partial, it was at least free and frank, so long as the public "superstition" of Paganism was allowed. For Christian

worship, on the other hand, and for the voluntary support of the Christian Church, two remarkable provisions were made by the Roman law about the year 321. On the one hand, the Churches and their "reverend assemblies" (*venerabile concilium*) were declared to be bodies to which bequests (and by implication endowments) might legally be given. The reason assigned for this law, it should be remarked, is not the merits of the object, but the respect due to the will of the deceased. But whatever the reason of it, this law remained for many centuries the great foundation of Church property. Constantine himself commenced his benefactions by sending about £18,000 to the African Churches. On the other hand, rest from daily labour is ordained for all courts of law, artisans, and city populations generally, on what Constantine still calls the Sun-Day (*Dies Solis*). Indeed, while his Christian convictions had all these years been strengthening, the symbols of Apollo do not disappear from his coins till the next crisis of his life now to be noticed.

The Eastern and Western emperors had long been jealous of each other. Licinius had dealt harshly with the rising Christianity of the great Oriental cities, and in A.D. 323 war broke out, which was largely a contest between the two systems. Constantine was victorious, and in his fiftieth year became sole sovereign of the united Roman empire. It was a most critical time for the question of toleration. The conqueror[1] had by the constitution absolute power over his subjects, and those who had fought against him had done so as against the partisan and representative of Christianity. Nor did Constantine refuse the part thus imputed to him. On the contrary, he now, for the first time, openly took it up. In an edict recalling Christians from the exile or the slavery to which they had been sentenced, he expresses with profuse energy his faith in God, who had guided him so far. But in a document suggested, as he tells us, by a rumour that

[1] Constantine the Conqueror was the name now officially assumed by him, whom his successors preferred to call Constantine the Great.

he was about to forbid temple worship,—his **Proclamation to the Peoples of the East**,—he now deals with the difficulty expressly. It is a remarkable document, in form not so much an edict as a sermon, addressed to his people, with biographical reminiscences and appeals to heaven intermixed. The following are the important passages :—

"I hasten, O God, to put my shoulder to the work of restoring Thy most holy house, which profane and impious princes have marred by their violence. But I desire that my people should live at peace and in concord, and that for the common good of the world and for the advantage of mankind. Let the followers of error freely enjoy the same peace and security with those who believe: this very restoration of common privileges will be powerful to lead men towards the road of truth. Let no one molest his neighbour. What the soul of each man counsels him, that let him do. Only let men of sound judgment be assured that those alone will live a life of holiness and purity whom Thou callest to find rest in Thy holy laws. But for the others who keep apart from us, let them, if they please, retain the temples of falsehood. We have the resplendent house of Thy truth given us as our inheritance. But this we pray for them also, that they may come to share the gladness of a common belief."

And the close is as follows :—"Let all men henceforth enjoy the privilege placed within our reach, *i.e.* the blessing of peace ; and let us keep our consciences far from what might hinder it. Whatever truth a man has received and been persuaded of, let him not smite his neighbour with it. Rather, whatever he has himself seen and understood, let him help his neighbour with it, if that is possible ; if it is not, let him desist from the attempt. For it is one thing voluntarily to undertake to wrestle for immortality — it is another to constrain others to it by fear. These are my words, and I have enlarged on this more than my forbearance would have prompted, because I was unwilling that my trust in the true faith should remain secret and hidden."

Views like those of this proclamation are to be found in the writings of Justin and the apologists, and occurred naturally to the Christians while they were yet under persecution. "The rights of man and the law of nature," said the stern but noble-hearted Tertullian, "give every one the power of worshipping as he thinks proper ; and the religion of one man neither injures nor

benefits another. Force is indeed foreign to religion." But it is more important to observe that the Christian conscience was confronted by the same principles when the new faith rose into power. In the reign of Constantine we find Lactantius (the tutor to the emperor's son, and a convert to Christianity during the Diocletian persecution) giving vigorous expression to the ideas which now found their way from the conscience of the emperor into the legislation of the world. "Religion cannot be compelled; it is by words rather than wounds that you must bend the will. Nothing is so much a matter of free will (*tam voluntarium*) as religion. Our God is the God of all, whether they will it or no; but we do not desire that any one, whether he will it or no, should be compelled to worship Him. . . . Religion is the one region in which liberty has fixed its domicile and home."

The Eastern proclamation of Constantine forms the third step in the only world-wide experiment of toleration which has ever been made. In one respect it is a distinct advance on the previous Edict of Milan. That edict had implied a certain approval on the part of the emperors of all kinds of worship, and on this grounded their toleration of the old and the new. Now, however, the emperor expresses his strong personal convictions in favour of the one faith, and yet enacts the toleration of the other, apparently on general grounds of liberty of conscience. In short,—

The toleration of Galerius, in A.D. 311, was a toleration of indulgence;

The toleration of Constantine, in A.D. 312, was a toleration of comprehension;

The toleration of Constantine, in A.D. 323, was a toleration of justice.

This last basis, involving the idea of liberty of conscience, was, as we have seen, the only foundation for permanence in the structure. It alone would give security against the changing

opinions of a despot, or of a dominant majority. And, on the whole, Constantine adhered nobly to the pledge to Paganism which had been so nobly uttered. The question might indeed be raised, even as to that pledge and proclamation, whether the strong expression of personal conviction, made in the proclamation of a despotic emperor, was not itself an act of pressure. The imperial utterances were sure to be regarded in that age as expressing the religion not of the man, but of the magistrate.[1] But the proclamation went a step further than mere expression of opinion. It announced the emperor's intention to use personal and lifelong exertions—to use the whole of his world-wide influence—in favour of Christianity. And in fulfilling this, Constantine made little attempt to separate his private from his imperial patronage. In the case of an autocrat it is as difficult to do so, as it is to say whether his benefactions are from his own or the public purse. The general rule at least followed by Constantine is clear. To tolerate all religions, but to favour Christianity, was the idea of his reign; and this idea seems expressed rather felicitously in a word which now occurs in his statute-book on the subject. So early as **A.D.** 326 a statute (*Cod. Theod.* 16. 5. 1) speaks, as a well-understood thing, of the "*privileges* which are conceded to religion," and which, it is there provided, must only be enjoyed by Catholic Christians. The word "*privilegium*" (a legislative favour to a private party)—something not wholly a public right on the one hand, nor a mere private gift on the other—expresses very well the kind of benefaction which the great emperor allowed himself to bestow on the Church, or on its parts. His own liberality was occasionally munificent, and it was exercised not only in building charities in important towns, but in giving rich rewards to places which had early declared for Christianity. In some instances he even appointed that the churches in a city should have a revenue out of the municipal funds—a step distinctly in advance of anything which he might

[1] "At no time could it be truly said of the Roman emperor that it was merely '*un citoyen de plus*' who had turned Christian" (Beugnot).

do with the properly imperial revenues. Then came the second great event in his protracted career.

In A.D. 330 he left Rome, which was still predominantly Pagan, and made Constantinople, which he took care should be chiefly Christian, the seat of government. While on the throne there, he prohibited the more *immoral* forms of Pagan worship. He confiscated sometimes for Christian uses the revenues of some of the less frequented temples. He presided at Christian councils, and surrounded the Church with the strength and wealth of the empire. He is even said, in his closing years, to have prohibited the ordinary public sacrifices, as well as those of magicians and conspirators. But this is historically doubtful; and it seems certain that if such an enactment was passed, it was never enforced. There is indeed no record that Constantine (while interfering very strongly, as we shall see, in the internal affairs of the Church and with the convictions of its members) ever to the last pressed the consciences of those that were without. But he had latterly used his imperial as well as personal influence so undisguisedly to favour the one faith, that the further step of attacking the other was sure to follow. The great emperor died A.D. 337, and—

A.D. 341—his sons, Constans and Constantius, issued a law beginning: "Let superstition cease; let the madness of sacrifices be abolished." In many parts of the empire, however, this was not obeyed, till in A.D. 353 Constantius ordered all the temples to be closed, and added: "We will that all abstain from sacrifices: if any be found doing otherwise, let him be slain with the sword."

Already, therefore, the toleration of indifference (or of comprehension) expressed in the Edict of Milan, and the toleration of justice combined with personal conviction of the Eastern circular of Constantine, had passed away. His early fancy that the two faiths might be united under a comprehensive Deism had also long ago faded, and he had become the energetic and munificent patron of Christianity. The religion of the emperor had no

doubt, before Constantine's death, appeared to many as, by necessary consequence, the religion of the State. And under his sons, even the nominal toleration of other religions and their rites was withdrawn.

Then came a reaction, which gave one more opportunity for that solution of the question which the world was in the meantime to reject.

Julian, the nephew of Constantine,—and, like him, educated in Neo-Platonism,—came to the throne in **A.D. 361**, and used all its moral influence in favour of the ancient State religion. But while he, of course, took away all "privileges" and preferences from the Christians, he promised them full toleration, and on the whole kept his word. His position was thus the exact converse of that which had been taken up latterly by Constantine. "I do not maltreat the Galileans," he said; "but I prefer the worshippers of the gods. . . . It is just to distinguish the men and the towns which honour the immortals." But beyond distinguishing them by private acts, and perhaps *privilegia*, he did not go. Indeed, in this reign, as in that of his greater relative, the spectacle was often seen of the ruler of the world earnestly arguing with one-half of his subjects, whose unconvinced consciences he refused to coerce. And this experiment was prolonged in another form after Julian's death, for—

**A.D. 363**—Jovian, himself a Christian like all his successors, restored their privileges to the Christians, but proclaimed a toleration to all. You allow us, said Themistius, the Pagan consul, to worship "God, not the purple;" and "while you will be sovereign as to everything else, you command that religion should be left to the free choice of each individual." Valentinian reigned much longer, his favourite residence being Treves; for the empire was now again divided into East and West. In his first year, **A.D. 364**, he published "freedom of worship" to all (*colendi libera facultas*). Yet in later years, Valentinian and Valens forbade "bloody sacrifices"—partly, perhaps, from their

supposed connection with conspiracy ; and throughout the empire the class of magicians and soothsayers were hunted down. The public worship of the old faith was however tolerated, though by this time it has come to be known, even in statutes, as Paganism, the religion of the *Pagani—i.e.* villagers or "rurals." Gratian, his son, went further. He was more scrupulous than any of his predecessors as to anything which might seem to make the emperor responsible for acts of heathenism. On succeeding in **A.D. 375**, he refused the robe, if not the name, of "Supreme Pontiff." He removed the altar of victory which had lingered in the Roman senate-house. He took away from the college of priests the corporate right of receiving legacies of real estate ; and he in many cases declined to allow temples and their guardians to retain endowments of which he had the power to deprive them. Yet he does not seem to have been held to be intolerant in his legislation ; though one statute, preserved by Justinian, is so sweeping in its terms as to cover all possible applications : "He who offends the divine law, whether by ignorantly failing to obey it, or by negligently violating its commands, is guilty of sacrilege." [1] But a more powerful influence, to which this enactment may have been due, was already rising in the Eastern empire.

**Theodosius the Great**, when baptized in **A.D. 380**, before his campaign against the Goths, issued an edict in his own name and in that of Gratian and Valentinian. It was addressed to the city of Constantinople. But in its terms it is an establishment of Christianity throughout the whole world, and that by imperial authority.

"We will," it begins, "that all the nations, who are ruled over by our moderation and clemency, shall cultivate and exercise that religion which the divine Apostle Peter originally introduced and has since handed down to the inhabitants of Rome, and which is publicly professed by the Pontiff Damasus and by Peter, Bishop of

[1] *Cod. Just.* 9. 29. 1.

Alexandria." He goes on to define some of its articles of faith, and adds, "Those who follow this doctrine we authorize (*jubemus*) to assume the name of Catholic Christians; and all others, judging them to be senseless and insane, we ordain to bear the infamy of holding heretical dogma; nor must their congregations (*conciliabula*) assume the name of churches. On the contrary, they must expect to be visited, first by the divine vengeance, and then by that also of the authority which we have received from the will of heaven."

This edict expresses the full theory towards which, as we have seen, legislation had been tending. It implies not merely the personal belief of the emperor, but his official faith as head of the State. It proceeds to impose that faith indiscriminately on all the peoples under his power, no matter how far their convictions may in each case have gone. And it threatens penalties, in conclusion, on all who oppose this faith, and even on all who do not hold it in Catholic purity.

The Goths were vanquished, and in A.D. 381 Theodosius, reigning at Constantinople, commenced the legislative suppression of Paganism in detail, by decrees against apostasy to idolatry and "forbidden sacrifices." Whether all sacrifices were meant was left ambiguous; but the tide ran more and more strongly against them all. Yet there were exceptions and centres of reaction; and in A.D. 384, Valentinian II. was met in the West as colleague to Theodosius by the same question which had troubled Gratian. But on this occasion it came up in a very instructive form. For it was settled upon a dangerous general principle, urged by a very great man, against the pleading of the chief city of the world.

Rome, though not now the capital, had still a population of two and a half millions, instead of the few thousands to which in later centuries it sank. The city and its senate were still predominantly Pagan, and they now skilfully urged that the old religion should be publicly continued there, and that on the very ground of toleration adopted by the recent emperors. All they asked of

Valentinian was to distinguish between his own private religion and the *religio urbis*—the religion of the city of Rome. This last he, as emperor, was merely asked to tolerate, that is, to suffer it to be what it had always been. The argument, of course, ignored the existence of a Christian minority in the city and in the senate. They, however, were not disposed to efface themselves; and, at their request, the prefect of the city was confronted by Ambrose, Bishop of Milan, who wrote the young emperor a letter on the subject, which still exists, and is of great importance in the history of opinion. In it, without formally abandoning the whole ground of toleration, he denies the right of the emperor to hold merely private opinions on religion. "Wrong is done to none of your subjects," said Ambrose, "when Almighty God is preferred before him. To Him belong your convictions, and you must carry them out. You force no one to worship God against his own will: let the same right be conceded also to yourself. But" (he went on to argue) "if you, the emperor, advise Pagan sacrifices, if you decree sacrifices on the Roman altars, you really offer those sacrifices yourself; and, after that idolatry, the Church cannot receive you. Choose; for you cannot serve two masters." Weak as this argument might be if addressed to a constitutional or limited monarch, it was weighty and plausible as an appeal to the conscience of one whose power, and, therefore, whose responsibility, seemed unlimited. The emperor, too, had felt already much veneration for the great prelate who now addressed him; and as the result, all public sacrifices ceased to smoke in the city of the old Cæsars. There were still, however, many altars and temples throughout the world supported by the decaying munificence of Paganism. But the patriarchs of Milan and of Constantinople maintained their urgency; and—

**A.D. 386**—a law of Theodosius, for the East, ordered the Prefect Cynegius to shut up all the temples, and abolish temple worship. In **A.D. 391** a law of Valentinian, for the West, forbade any one to "pollute himself by sacrifices," and fined all who should enter temples for any such purpose. And in **A.D. 392**

Theodosius, on Valentinian's death, consolidated his legislation for the whole Roman world, by a law which, among other things, ordained that both sacrificing and soothsaying should be held public crimes, "like high treason"—*ad exemplum majestatis*. The wheel had now come almost full circle; for not only was Christianity now established, as Paganism had been before, but the open exercise of the one religion was declared a crime against the State in the same way—and even in the same words—in which in the previous century the law had bent itself against the profession of the other.

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In this chapter we have now traced the fourth century revolution **from the outside**, and in its more public aspect. We have seen, that is, how the State, by the year A.D. 380, had reversed its former general relations to Paganism and to Christianity. But the result of this change was a certain mutual recognition and alliance of the State and the Church. We have now to inquire what that result amounted to in detail—what during the same period were the chief **internal and administrative relations** uniting, or at least connecting, the two bodies.

When the world became Christian, there was no deliberate intention in the mind of any one to *mix* the functions of Church and State. Indeed, for two centuries or so thereafter, any such mixing took place only occasionally and inferentially. The main fact of the time rather was the relation of independence, unparalleled in history before the Christian era, which the two systems—the ecclesiastical and the civil—still maintained. A thousand years were to pass from this date before that independence came to be theoretically denied. And in the first instance it was in general practically maintained, now that the two bodies were in alliance, as it had been when they were in separation. Yet a close connection was formed, and an increasingly close connection was in that age inevitable.

The State, on its side, was affected in respect both of its legislation and administration. The **legislation** of the empire became suddenly tinged with Christian feeling. On all hands, and especially in its treatment of women, children, and the poor, it showed a new tenderness for the helpless, and a new reverence for the individual. Yet this remark must not be carried too far. It seems undoubted that the chief changes of this critical time were made not so much by positive as by permissive legislation. What Constantine and his successors chiefly aimed at in these statutes, was to make channels in which the new and living stream of feeling could flow. Take, for example, the institution of slavery, and the slow work, protracted through centuries, of emancipation. That work was not carried out by imperial legislation—not even by that of the Church. The empire, at the most, provided facilities for the work being done by private generosity and justice (stimulated by the spirit of Christianity, though not by the command of the Church); while in the meantime it tempered the absolute power of the slave-master by humane enactments. But the Church had been recognised by the law as the organ of the moral sense of the community; and while its officials were apparently held entitled to criticise not only the private actions of magistrates who were its members, but also their public proceedings, a special provision was made for assisting the claim of humanity. A formal "right of intercession" was now granted to the bishops, to be exercised on behalf of all in helplessness or misery, and especially of those condemned to death. The State, it is clear, retained the whole right and duty of administering public justice, and of tempering it with mercy. But as a help to its exercise, it invited and sanctioned a certain interposition of the Church.

A similar relation of the State to the Church is found when we turn to the important subject of **Church maintenance and property.** The empire, as we have seen, gave to the Church a number of unfair and unequal privileges. But it never assumed the duty of its support. The main support of the Church after A.D. 381 was

what it had been for three centuries before—the liberality of the faithful. The gifts of the emperors were often munificent; and they, no doubt, came indirectly (and sometimes directly and expressly) from the treasury of the State. But they were of importance chiefly as an example to private donors. And private donation and endowment of the Church, illegal while it was an illegal association, tolerated when it was tolerated in A.D. 313, was now formally legalized by the law of Constantine in A.D. 321. Yet even that law—providing that bequests to the local assembly (*concilium*), which represented the Catholic Church, should be valid—only provided a channel, or only recognised the existing channel, for private and voluntary liberality. The channel of bequest itself, we know, was not an ancient one. In this, as in some other things, the Christian Church was fortunate in the time of its appearing on the stage—if for a Church obtaining wealth is good fortune. Among the Romans, as among the Northern races now mixing with them, the individual had originally no power to divert his property by his will from the surviving family.[1] Gradually that had been changed, and before the Constantine revolution took place, the only reason why heathen and Eastern religions did not become constantly richer by inheritance was, that men had ceased to care about them. To that opportunity, Christianity, by this law emphatically recognising the last wishes of donors,[2] now succeeded. So this, which was little more than toleration under the common law, became the foundation for the great European edifice of Church property. There was more

[1] "The barbarians were confessedly strangers to any such conception as that of a will. . . . Soon after they became mixed with the population of the Roman provinces, they appropriated it from the imperial jurisprudence. . . . To the Romans belongs, pre-eminently, the credit of inventing the will, the institution which, next to the contract, has exercised the greatest influence in transforming human society" (Maine's *Ancient Law*).

[2] After allowing the testator to leave to the Church "what he chooses," Constantine adds: "There is nothing to which men have a stronger right than that the expression of their last will (for there can be no later) shall be unfettered, and that the choice, which they have no opportunity of changing, shall at least be free."

necessity for the law to interfere in questions of interpretation and administration. Thus it appears that, under the powers of testators, acknowledged by the law just cited, men were occasionally in use to name as heirs or legatees (heirs to the whole or legatees to part) of their property "the Lord Jesus Christ Himself, or one of the archangels, or one of the venerable martyrs." Was the law to maintain the bequest, and to what effect? It provided [1] that in such a case the bequest was good against the deceased's relatives, and that it was to be held as given to the church of the deceased's district, or to the nearest church dedicated to the martyr or archangel named. The general purposes to which these and all gifts to the Church were held by it (and by the law) to be destined, were threefold—the support of the clergy, the relief of the poor, and the maintenance of church buildings. But the threefold administration was given now almost exclusively to the bishop, who, of course, had to be assisted by his *economus* and other officials in dealing with the growing mass of ecclesiastical property.

The acknowledgment of the bishops as the administrators of Church property made them at once, in a sense, great civil officers. The law acknowledged, at the same time, their proper ecclesiastical jurisdiction in Church matters, and this was stretched to include civil questions arising between clerics, as well as all things relating to their discipline. But even as to purely civil or pecuniary questions arising between laymen, when these agreed to refer them to the arbitration of the bishop (as Christians had been in the habit of doing since Apostolic times), the law now sanctioned his jurisdiction. These rights, each taken singly, were not much greater than had been enjoyed by the elected officers, first of the Jewish and afterwards of the Christian congregations. What was new was that the tide of charitable enthusiasm throughout the world was now running in the channel of Christianity, and that in the Church the resulting responsibilities were accumulated upon the episcopal, as in the State upon the imperial,

[1] Justinian's Code, 1. 2. 26.

functionaries. It was not surprising that in many cases the emperors now began to exercise a right themselves to appoint the bishop or patriarch, without very clearly defining the ground of the claim.

Yet the empire at first refused to interfere with the Church in most internal affairs. Constantine, indeed, called Synods, and exercised immense influence over them. But when he attended them, leaving his guards at the door, "he seated himself (with the permission of the council) on a low stool in the midst of the hall, and professed himself the minister, not the judge," of its decisions.[1] "I am a bishop as well as you," he said to one of his guests. "You," he explained, "are bishops (overseers) inside the Church, and I am God's bishop outside it." He never hesitated to accept the theory of his earliest adviser, Hosius: "Do not yourself meddle with things of the Church; do not even instruct us about them. Rather learn from us; for God has entrusted the empire to the emperor, but the Church to the bishops."[2] And the independence conceded to the Church by the earliest Christian emperor was openly claimed by it and by its representatives from his successors. We have had occasion to mention the great name of Ambrose in connection with the rise of a system of intolerance. Unfortunate as his influence in that direction was, no part of it was gained by unworthy means. It was the same Theodosius the Great, who was now becoming the legislator of Christendom, whom Ambrose for eight months shut out from communion with even the humblest members of the Church, until, with diadem and mantle laid aside, he uttered amid groans and tears his repentance for the seven thousand men slain by his soldiers in the streets of Thessalonica.[3] Ambrose was a powerful noble, elected by the Milan Church to be its bishop while he was

[1] Gibbon, after Eusebius. [2] Eusebius.

[3] Vandyck, following Rubens, has painted the scene, which, according to tradition, took place on Christmas day A.D. 390 on the steps of the great Lombard church, and his picture in the London National Gallery is perhaps the noblest record of the historical relations of Church and State which the

yet a catechumen, and his character was at all times more impressive than even his high position. But his chief strength on this memorable occasion was neither personal nor prelatic; it was that he represented the purity and independence which the Church claimed equally after its establishment as before, and of which the Christianized State did not attempt to deprive it.

Yet Constantine and his immediate successors were led in an unexpected, but by no means unnatural way, while maintaining the divine origin and independence of the Church, at the same time to interfere very seriously with its internal relations.

The **Donatist Controversy** in North Africa, which raged while Constantine was still merely emperor of the West, gave the first occasion for imperial interposition on a large scale. The rigid or Puritan party there, upon the election in **A.D. 311** of a bishop who was held to be too indulgent to the "lapsed," refused to recognise him, and elected another. Both parties seem to have gone to the newly-converted Constantine. He referred the matter to nineteen bishops at Rome in 313, and thereafter to a council at Arles in 314; but the Donatist party, having lost their cause before both ecclesiastical tribunals, appealed to the emperor himself. He too, in 316, decided against them; but the attempt to enforce his decision was met with the most obstinate resistance. Constantine, who all this time refused to interfere with Pagans, urged submission upon the Donatist Christians. Sometimes this was on the ground that the matter had been decided by the Church, from which he now said (somewhat too late) there should be no appeal. At other times he took the same course on the stronger ground, expressed in his law of 326, that "privileges" (*i.e.* legislative favours) "given to religion are available only to those who observe the Catholic rule; heretics and schismatics

world of art has to show. On the one side the laurelled emperor, his strong Spanish features working with emotion, stretches suppliant hands from amid his indignant guards. Above him towers, in chasuble, crozier, and mitre, the unbending figure of Ambrose; but even while his repellent arms confront the shrinking monarch, a majestic tenderness fills the aged face.

are not only to be deprived of these advantages, but to be constrained by burdens and disabilities." The Donatists' perseverance, however, wore out the adverse determination of an emperor always disposed to revert to toleration; and he seems latterly to have granted them a full "liberty of action" in matters ecclesiastical, though he no doubt still refused to let them share the imperial "privileges." His son Constans, in 340, went further, forcibly depriving them of their church buildings on the one hand, while on the other he offered money and rewards; and the Church in North Africa was called back to the unity of "Christ the lover of unity," by a proclamation of the emperor. "What has the emperor to do with the Church?" was the reply of the fiery Bishop Donatus; but the imperial persecution of his too fanatic followers lasted till Julian, in 361, restored them to the churches of which they had been spoiled. The successors of Julian renewed a pressure which rather tended to perpetuate than to cure the North African schism. It lasted all through the fourth century, and in the beginning of the fifth the evil results of this hundred years of division had much to do with the passionate zeal of Augustine for the visible unity of the visible Church. That unity, he maintained (against the Donatist bishops), a Christian emperor was bound to demand of his subjects. If possible, the demand should be gently made; but as the emperor was now held by all rightly to forbid heathen sacrifices on pain of death, he was surely also entitled to apply in some milder form to schismatics and heretics the words of the gospel, and "compel them to come in."

**Augustine**, in his earlier days, had held the full principles of toleration which so many apologists of Christianity had professed before Christianity succeeded to the power of persecuting. And even to the last he maintained that the civil authority was bound to put no one to death for his heresy or unbelief. But Augustine was the convert and grateful admirer of Ambrose, and he took up for the whole world the theory of responsibility for others, which his teacher had urged upon the emperor. Accord-

ingly, persecution during succeeding centuries has founded itself upon the words flung out from the glowing intellect and pure heart of the African saint, more than upon the views of any other man. It is therefore not without importance to notice how fitted the history was which we have just summarized, to lead aside a Churchman whose opinions were being formed amid the strain of practical difficulties and duties. The questions which arose with the Donatists could not be truly represented as wholly unfit for imperial decision. Which of two congregations should occupy a particular building was a matter to be decided, not by violence between the parties, but by the civil power, whose duty it is to prevent violence. It was so even when Christianity was outside the Roman State and law altogether (p. 17). But the civil power could not well decide this question without forming an opinion which of the two parties best represented the Christian Church, or perhaps the original congregation of the locality. And when the emperor or his prefect had formed this opinion,—formed it, too, at the request of the parties concerned,—were they not bound to enforce it? It was here that the ambiguity and risk of error crept in. That the civil power was to enforce it against the property and civil claims of the party which had lost its cause was by this time conceded on all hands. And the further step, that the civil power should enforce its own view of orthodoxy upon the consciences of the losing party by demanding active as well as passive obedience,—should summon them to abandon their own convictions as to Church duty, and to act in the Church upon the Church views adopted by the State, under penalties in case of disobedience,—all this did not appear so vast an additional stride then as it does now to us. At least it did so only to those who suffered under the theory,—to Paul when beaten with rods, to Athanasius struggling against the world, and to Donatus facing the imperial ban,—not to Augustine, who hailed the powers of earth as at last buttressing the invisible city of God.

Still more important, in this point of view, was the relation of

the great emperor at a somewhat later period to the great questions of **Council** and **Creed.** In A.D. 321, **Arius**, deposed by the Egyptian bishops, appealed to the Christian world, and especially to the Eastern Church. Constantine had just become sole emperor, and now sent a letter to both parties, urging them not to raise questions, "which Alexander ought not to have pressed upon his clergy, and about which Arius ought to have kept his differing views to himself,"—questions as to which they should forgive each other, and live peaceably as philosophers of the same school. The well-meant advice ignored the strength and earnestness of the current of Christian thought in that age, and remained unheard. In **A.D. 325** Constantine summoned a general council of all bishops to meet at Nicæa, which he opened himself with great pomp. It was a council memorable as the first representative assembly of the now world-wide Christian Church. The questions at once arose—(1) How much truth, especially as to the nature of God, such an assembly should profess and define? (2) How far it had a right to bind its own definition on the Church as a whole, or on its members? But we must treat these questions as subsidiary to the one with which we have specially to do, the relation of the Church, represented by so many bishops, to the State, represented by one man. At the council the emperor very soon went over to the opinion opposed to Arius, and his leaning seems to have influenced the members, most of whom had desired a middle course, not only to adopt a definition opposed to that teacher, but to enforce it. Accordingly, when the council deposed and excommunicated Arius, the emperor banished him, and directed that his writings should be burned, and even that those who concealed them should be slain. In 327, however, before a year had passed, his dying sister Constantia induced him to place confidence in Eusebius (not the historian), who again persuaded him that the views of Arius were speculative and harmless. He was therefore recalled, and the new bishop, Athanasius, commanded to receive him under pain of exile. Athanasius persistently refused, and being assailed also with

charges of violence, was ordered to be tried before a Synod meeting at Tyre in 335. From its proceedings Athanasius appealed to the emperor, who, in 336, banished him, and brought Arius back in triumph to Constantinople, where, however, the sudden death of the latter was followed by that of Constantine himself in 337. The new emperor, Constantius, was a much keener theologian and a much weaker ruler than his father, from whose toleration of Pagans he made haste to depart. At two Synods, called by him in 353 and 355, the bishops were obliged to subscribe a condemnation of Athanasius, while the latter slipped out of his church in Alexandria, through the swords of the soldiers, and escaped to the desert. In 360 a council at Constantinople forbade all propositions as to the substance of the divine nature as unscriptural; but next year Constantius died, and Julian, who succeeded, was of course neutral in Church disputes. Jovian (died 364) and Valentinian (died 375) were Christian emperors, but proclaimed the principle of not interfering either with the religion of their own Church or with that of polytheists. Valens, however, the colleague of the latter, was a keen Arian, and annoyed the professors or enforcers of the Nicene definition throughout the East. But by this time that creed, already dominant in the Western Church, was beginning to be received in the East. Athanasius was recalled in 373, and both emperors issued an edict in 375 disclaiming persecution under pretext of religion. What was at hand, however, was the triumph, not of toleration, but of Nicæan orthodoxy. Valens died in battle against the Goths, and his avenger, Theodosius, entered Constantinople in 380 as emperor, having already issued the decree that all peoples under him should, under heavy penalties, profess the Catholic faith. And the Catholic faith he went on to define, in a twofold way, as that of the Bishops Damasus of Rome and Peter of Alexandria, and as "the belief of the one Godhead of the Father, and the Son, and the Holy Spirit, under an equal majesty and under a pious trinity, according to the teaching of the apostles and the doctrine of the gospel." Those who so believed

were exclusively authorized to call themselves Catholics, and all others were threatened with the vengeance of God and the emperor. The creed thus imposed on the world was confirmed next year, 381, by a council at Constantinople; the Arians were instantly stripped of their churches, and Arianism thenceforward suppressed all over the empire.

In the Arian as in the Donatist controversy, the emperors did not take the initiative. Constantine's great desire was for peace, and he would have preferred that this had been attempted by the bishops not defining the truth or not enforcing their definition. But when this method seemed hopeless he readily took the other,[1] and his first unjustifiable step—an imperial command to those who conscientiously disagreed with the decision of the council, to submit to that decision — naturally led on to others. For an imperial command was of course backed by imperial sanctions; and these came to be exile and other forms of persecution. So, when the emperor afterwards changed his own view, he naturally felt that truth and God demanded of him at least as much support, and support of the same kind, as he had formerly given to a Church council which he knew to be swayed largely by human passion and his own personal influence. So for two generations the Church rolled in the trough between waves of alternating intolerance, and the final triumph of orthodox definition became unfortunately that of persecuting theory also.

For **A.D. 380**—the same seventieth year but one from the toleration of Christianity, which made its profession legally binding upon all men—gave that profession a legal definition. It was defined, not so much by the whole great creed of Nicæa, as by the one article of that creed which had divided the minds and exercised the thoughts of the Christian world. The definition of orthodoxy was, of course, also a definition of heresy. And with

[1] To a bishop who agreed with the dogmas of the Nicene Council, but stood out from it in favour of a stricter discipline, the emperor said: "Take a ladder, Acesius, and climb up to heaven by yourself."

the persecution of heresy within the Church was combined the persecution of all without. Indeed, the legal suppression of heresy [1] and the extermination of heretics were sanctioned by the same law—and even in the same all-embracing words [2]—which finally abolished the toleration by Constantine of those outside the Church, and made it penal to be an infidel, a polytheist, or a Jew.

[1] After the Council of A.D. 381, laws rapidly appeared, (1) Turning Arians, etc., out of the churches. (2) Forbidding their erecting others. (3) Appointing "inquisitors" to follow them out. (4) Forbidding their meeting for worship, and confiscating their corporate property. (5) Banishing all Apollinarians, and deposing their bishops. (6) Confiscating all bequests to Eunomians. (7) Fining and flogging those who lent their houses to heretics to hold conventicles and ordain ministers of religion. (See the Sixteenth Book of the Theodosian Code.)

[2] Cunctos in tali religione volumus versari.

## CHAPTER III.

### THEODOSIUS TO CHARLEMAGNE.

THEODOSIUS died in **A.D. 395**, and the empire of his successors shrunk together under the attacks of the barbarians. The end of all things seemed at hand as the fourth century ended, but in truth it was new life that was pouring into the withered veins of the world. Already the Goths and other nearer Teutonic tribes had been Christianized by missionaries and captives, who had carried the gospel there without the definitions of Nicæa; and as the Burgundians settled in Gaul, the Suevi in Spain, the Vandals in Africa, and the Ostrogoths in Pannonia, they all professed Christianity, but generally in the Arian form. Most of the barbarous conquerors tolerated, though Genseric and his Vandals persecuted, the orthodox creed; and that creed, strenuously maintained by the Roman bishops, became more and more the confession of the West.

**A.D. 410.**—Rome was stormed and sacked by Alaric, and the world trembled at the fall of what had been so long its centre. Even Christianity had failed to perform the promise which some of its representatives had rashly made in its name. "O good nail," said Ambrose, addressing the Nail of the True Cross, "which holdest compacted together the empire of Rome!" That empire had now finally lost its old centre of cohesion, but Christianity still offered to the world a future. So on this occasion Augustine wrote his book, *Of the City of God*, claiming for the Church existence at all times alongside of the kingdoms of earth, as a world-wide city whose builder and maker was

God. New Rome, as Constantinople was called, could give no assistance to the West in its troubles; it could at best protect the Church in the provinces near it. Indeed, soon after this time, Italy, like Africa and Spain, came to be held by its Teutonic conquerors with scarcely a nominal submission to the emperor. Here **Theodoric**, "a Gothic king who might have deserved a statue among the best and bravest of the ancient Romans" (Gibbon), during most of his long reign, while himself an Arian, tolerated and protected the Catholics. It was he who addressed to the Emperor Justin these "golden" words, "That to pretend to a dominion over the conscience is to usurp the prerogative of God; that by the nature of things the power of sovereigns is confined to external government; that they have no right of punishment, but over those who disturb the public peace, of which they are the guardians; and that the most dangerous heresy is that of a sovereign who separates himself from a part of his subjects, because they believe not according to his belief." But by the swords of Theodoric and weaker men, the whole West was now torn from the empire. In ecclesiastical matters the result was remarkable. The Eastern Church, cowering under the imperial protection, lost most of its strength and all its independence. The Western Church, cast upon its own faith and courage, became the most powerful element in the confused forces that were re-shaping the age, and civilizing its barbarian conquerors. But the centre of the Western Church was Rome, and so the Bishop of Rome continually increased that authority over his quarter of the world, which the other Patriarchs of Antioch and Jerusalem originally held also over theirs.

The East, however, was still the centre of the empire, and therefore of the Church when called to meet in council, as it had been twice early in the century at Ephesus, and again, in **A.D. 451**, at **Chalcedon**. The first of these councils divided, and each party appealed to the emperor; the second and third were scenes of violence, and both the opponents and friends of Eutychianism, as soon as they were condemned by

the council, were imprisoned and exiled by the civil power. That power generally leaned against making new definitions of doctrine; but when driven to accept them, it showed jealousy of any dissent, especially when the dissent found a centre in national feeling, and so tended to disintegrate the unwieldy empire. In the Church, at least, huge disintegrations now took place. Nestorianism had been condemned by the earlier Council of Ephesus, and the views thus excluded were crushed out of Syria, but had taken refuge in Persia; and a great Christian Church of similar views was now also founded in Chaldæa, under the Patriarch of Babylon. For several centuries it prospered and grew, sending out missions as far as India and Tartary, until, in the eleventh century (from which it began to decline), the Patriarch at Bagdad had under his sway twenty-five metropolitans and a large portion of Christianized Asia. The Council of Chalcedon worked in much the same way. Its chief act was to condemn the Monophysite view of the nature of Christ; and the maintainers of this heresy in Syria, persecuted there, transferred themselves to the Tigris, where the Jacobite patriarchs still rule over a remnant of the ancient community. In Egypt the results were still more serious. In it the people refused the Chalcedon definition, and formed a national or Coptic Church with Monophysite views, which has survived the oppressive measures not only of Justinian and the emperors, but of Islam in later times. The Egyptian minority, exposed to the imputation of accepting orthodoxy on the authority of the emperor, were named *Melchites*, or King's-men. In vain did the Emperor Zeno, in A.D. 482, issue a *henoticon*, or proclamation of unity. It not only described the points on which parties were agreed as the "imperial creed," and described those who confessed additional truths as being outside the Church; but it was followed up by the State enforcing the unity which it recommended, and refusing liberty of discussion of the points controverted. Another great Church affected by the council, that of Armenia, was without the empire, and perhaps had always been. It was

probably indeed the earliest of national Churches, if it is true that the nation with its prince, Tiridates, were converted as early as A.D. 276—half-a-century before the Roman empire became Christian. Armenia was now under the power of Persia, and though it subsequently regained its independence, it has long since again lost it; and the members of the race, now scattered throughout the East, find only an ideal centre around the base of Ararat. But before the end of the fifth century it was an acknowledged Christian Church and body, and it also broke off on occasion of the Council of Chalcedon.

And while the Church suffered these losses in the East, the empire had already lost the West as a whole. The last emperor residing in Rome resigned his office in **A.D. 476**; and from the Grampians to Mount Atlas the barbarians ruled. But as their tribes pressed southwards one by one, the light of Christianity struck upon their faces. The conquerors were again conquered; and with a boundless surprise and hope, they prepared to adopt the old civilization which a new religion had re-inspired.

**Justinian** became emperor in **A.D. 527**, the year after the death of Theodoric the Ostrogoth. Famous in his day as the temporary restorer of Africa and Italy to the empire by his generals Belisarius and Narxes, he has become famous to all time as the consolidator and transmitter to modern Europe of the "written reason of the Roman law." In the digest of that law his Chancellor Tribonian went back to its great age under the Antonines, and excluded Christianity so completely from the colourless and majestic structure, as to incur the reproach of irreligion. There was the less reason for such a suggestion, that Justinian had already, indeed in the very first year of his reign, issued a **Code** or consolidation of the legislation of his Christian predecessors. And in it the laws specially relating to, and inspired by, Christianity take a foremost place. Justinian's Code, indeed, enables us to trace with ease the progress made in the relations of Church and State during the two centuries since Constantine. It opens with the Nicene Creed, as the confession and law of the

empire; it goes on not merely to condemn, but to "anathematize" the chief schools of heresy; and it builds up the whole growing intolerance of the statute-book since the days of Theodosius into a system against heretics within and unbelievers without. And when the imperial power dealt so authoritatively with the spiritual region of creed, it was sure to overstep more or less the whole separate province of the Church. Justinian, indeed, holds the ecclesiastical rulers in great reverence; but he issues enactments which control and limit their "appointment, organization, subordination, and authority." The canons of the Church, he says, are to have the force of his own laws; but his own laws are uttered as if directly binding in ecclesiastical matters, without any statement that they have been sanctioned or demanded by the Church. Throughout, indeed, he bears himself as the Church's legislator, acting apparently not only at its desire and in its interest, but also by the ordinance of God. The mixing of the functions of Church and State, which commenced under Constantine, had thus by this time become almost a union of the two bodies; and of the twofold system the emperor is the centre. The Church, on the other hand, had during the whole time been consolidating its power as an administrative body. It was during the sixth century that the so-called apostolical canons were collected and received by the whole Church. Justinian, too, at its commencement, followed up the policy of his predecessors in giving the bishops civil as well as ecclesiastical power. They were made the legal guardians of prisoners, minors, foundlings, waifs, insane persons, and oppressed women; they had an official share in the choice of civic and other magistrates, and in the oversight of city funds and public establishments; while they were entitled to interfere when the judges had refused justice, and in special classes of cases were themselves authorized to hear the complaint and decide the cause. This large power of interference in civil matters was accompanied, but scarcely balanced, by a power given to magistrates to see that the bishops observed the ecclesiastical laws. This, however, apparently related chiefly

to the inalienableness by them of Church possessions, and to the regular holding of Synods; and, besides, the magistrates could not punish the breach of such duties themselves, but could only give warning and then report to the emperor. The real power pressing the Church from outside, indeed, was that of the throne. The emperors sent down their laws to the patriarchs on many matters as to the external—and some even as to the internal—constitution of the Church; to be communicated by them to the metropolitans, and by these to the bishops generally, and to be obeyed by all. The Eastern Church generally obeyed, except in times of popular commotion, and the Greek bishops became more and more subservient. The Latin Church, again, clustering round Rome, accepted or anticipated the civil privileges granted by Justinian, but used them to promote the Church's independence alike of the distant Cæsar, of his barbarian lieutenants, and of the independent Western kingdoms.

For the West, now crowded with the new barbarian invaders, was becoming consolidated, and alongside of Justinian's we find the **Barbaric Codes.** They were issued amid the new races, not by the authority of an absolute emperor, but by the king, his great council, and the people supposed to be present or represented. But the substance of them was borrowed or imitated from the jurisprudence and Christianity of the empire, modified according to the peculiarities of each Gothic or Frankish tribe. The minor modifications were innumerable,[1] but the general relations of Church and State, and the extent to which the two systems were intermixed, were not very different from what we have seen them to have become under the empire. The toleration of Theodoric fell away like that of Constantine; the stedfast adherence of the Western Church to Nicene orthodoxy was rewarded by the conversion from Arianism of all the tribes of the north; and in result, every king and chief of the new order of things came

[1] For English readers the most accessible comparison of the Christian jurisprudence of the new kingdoms and the old empire will be found in the opening chapter of the second volume of Milman's *Latin Christianity*.

to take up the same relation to the Church—of friendship or patronage—which had been assumed along with the purple by Theodosius or Justinian.

In the matter of **Church Property** the imperial and barbarian codes were equally favourable to ecclesiastical aggrandisement Constantine, as we saw, gave individuals the questionable power of bequeathing property away from their families to the perpetual use of the Church. Subsequent laws, now consolidated,[1] made all such property, whether land or moveables, absolutely inalienable, even if the Church itself should desire alienation; while other provisions began to exempt the Church from public burdens. The result was, that the Church became "the sole proprietor whom forfeiture or confiscation could never reach; whose title was never antiquated; before whose hallowed boundaries violence stood rebuked; whom the law guarded against her own waste or prodigality; to whom it was the height of piety, and almost ensured salvation, to give or to bequeath, sacrilege to despoil or to defraud."[2] And the power of bequest now conceded, not only to parents against their families, but to princes against their peoples, and to chiefs against their vassals, had immense results in that age of universal turbulence and conquest. In Italy, for example, which before the end of this sixth century was reduced to extreme misery in consequence of the Lombard invasion, the great private possessions which the metropolitan Church of Rome held all through the peninsula, enabled and almost compelled the bishop of that Church, **Gregory the Great**, to act the part of a public benefactor or a private prince. The mere ecclesiastic had become more influential, even in civil matters, than the exarch,

[1] The seventh chapter of Justinian's *Novels* is devoted to statutes against Church alienation. The second section, however, permits the emperor to change one gift for a better, with the significant reason added: "After all, there is not so much difference between the Church and the State (*sacerdotium et imperium*), nor between things sacred on the one hand, and things public and common on the other, seeing that all its wealth and status continually come to the most holy Church from the imperial munificence."

[2] Milman.

who, shut up in Ravenna, professed to represent the distant Cæsar of the East.

Gregory became bishop or pope (for the latter name, formerly applied to the Alexandrian patriarch, was now used also in Italy) in A.D. 590, and the eminence of this great ruler had a powerful influence on the claim of Rome to ecclesiastical supremacy. Yet he was but one of a series of able and faithful men who now maintained that claim, the history of which we may shortly resume.

Before Constantinople or New Rome existed at all, Old Rome was in one sense the centre of the Church, simply as being the centre of the world. But its Christian community then claimed precedence (not authority) over other Churches, rather because of its legendary connection with St. Peter and its undoubted visit from St. Paul. Of these two grounds for supremacy, the original and more historical one was soon taken away. The "donation of Constantine" is now admitted to be not only a forgery and a fiction, but the converse of the truth: for while Constantine gave nothing to the Roman Church, he took away from under it the seat of empire, and so perhaps postponed the papacy for hundreds of years. Yet even he, like the Council of Nice, admitted the Roman bishop's honorary precedence among the other patriarchs—a primacy *inter pares*. Nothing more seems at this time to have been claimed. But more was certain to spring out of the passion for visible unity of the hierarchical Church. Visible unity, indeed, does not imply a visible head. But it suggests it—especially to a monarchical or feudal age. The desire of it, in combination with the growing sacerdotal principle, had already raised the bishop from being one among the other bishops of the congregation, and set him over even the other congregational bishops of his province. It made the provincial bishops throughout the world subject, to a certain extent, to metropolitans, and now (A.D. 425) the metropolitans, in like manner, subject to the Patriarchs of Rome, Alexandria, and Antioch. Among these Rome had the primacy of honour; and in a community which

had been taught for centuries to decide all its disputes by domestic arbitration, it was natural to refer disputes to the primate. But the arbitration or appeal to Rome, which the Athanasian Synod of Sardica in A.D. 347 had recommended in the questions then in dispute, was soon claimed by the Roman bishops as matter of right. Innocent and Zosimus in the beginning of the following century, the Ephesian legates in 431, and, above all, the famous Bishop Leo, who flourished 440–465, had for the first time taught that the See of St. Peter had as such the right of deciding all "graver ecclesiastical causes," that all could appeal to it, and that its sentence was final. The East and the ecumenical councils never conceded this, but an emperor of the West sanctioned it by his edict of 445; and in the end of the fifth century the Bishop Gelasius could write that his See "has the right to decide and judge in all matters concerning the faith," while his successor, Symmachus, demands even of the emperor whether he will strive with St. Peter in the person of "the pontiff," whose dignity consists in this, that "while the emperor has the care of human things, the pontiff has the care of things divine." A hundred years had now passed since these daring utterances. The Christian community had long before this become quite dependent upon the hierarchy, both in faith and practice. Within that hierarchy the character and the claims of the one patriarch of the West had risen high in contrast with those of the three who in the East sheltered under the emperor. And now that the West, politically, was beginning to be severed from the East, everything pointed to ecclesiastical schism and Western independence.

A great preacher, a great administrator, and a great legislator, Gregory raised Italy from what Gibbon calls "the lowest period of its depression;" guarded and dispensed for its benefit the already vast possessions of his Church; mediated between the Lombards, the Italians, and the Greeks; reconciled to the Church the Arians of Spain, the Arians of Italy, and the Anglo-Saxon Pagans of Britain; judged the bishops of the West in cases of complaint,

and brought even the bishops of Africa to submit to the appeal to Rome; kept the Church more and more independent of emperor, exarch, and king; and, above all, transmitted to his successors that instinct for governing men, which, after a thousand years, had again begun on the Tiber side to work for the welfare and subjugation of the world. Two incidents in his life call for record. One marks the exact stage reached in the supremacy question. John, Patriarch of Constantinople, now the undisputed centre of the great empire restored by Justinian, thought it was a fitting time to claim the title of "ecumenical" or universal bishop. Gregory wrote a protest, which, while not forgetting the injury done to the precedence due to the See of St. Peter, founds upon the injurious and "blasphemous" nature of such a claim, by whomsoever made. "What wilt thou answer to Christ, the head of the Universal Church, who by this name of Universal wouldst subject all His members to thyself? No one has ever before used such a phrase, or taken so daring an appellation." And what he denied to others, he refused for himself. The Alexandrian patriarch had addressed Gregory as a "pope of the whole Church." In answer, he earnestly deprecated the phrase, as taking from his brethren the honour which it gave to one of their number. "For if your holiness calls me Universal Bishop, the quality which you ascribe to me you necessarily deny to yourself." Another incident defines his relation as bishop *primus inter pares* to the imperial power. "Monasticism," it has been said, "ascended the papal throne in the person of Gregory," and nothing could wound him more than the emperor's new ordinance, that no soldier should abandon the ranks to take refuge in the cloister. Yet he was called on not only to listen to this edict, but himself to promulgate it—an additional step, which, in countries like Scotland, has often changed the mere protest of humble presbyters into absolute refusal. Gregory protested. "Christ answers, by me, the lowliest of His servants and of yours, 'From a notary I made you captain of the guards; from captain of the guards, Cæsar; from Cæsar, emperor.' By

that terrible judge, I beseech you, either mitigate or alter this law." But he obeyed. "As for me, submitting to thy order, I have sent this law to the various countries of the earth, and I have said in writing to my serene lords, that it is a law which goes against the law of the Almighty. I have therefore fulfilled my duty upon both sides: I have rendered obedience to Cæsar; and I have not been silent as to what appears to me to be against God."

In **A.D. 632 Mahomet** died, accepted by Arabia as the prophet of God, and the flood of Saracen conquest which followed changed the face of the world. In particular, it greatly weakened the power of him who was still nominally the sole emperor of East and West. Before 640 the Saracens had torn from the Roman empire the great provinces of Syria and Egypt: before the end of the century they had conquered Africa to the Pillars of Hercules, and had beseiged Constantinople. In the East, the empire and the subject Church trembled for their existence: in the West the freer Church, remote from the danger, strengthened and grew. The Monothelite controversy (whether there are one or two *wills* in the person of Christ), which raged during this century, brought out the single-minded vigour and energy of Rome in contrast with the feebleness of the East. The Emperor Heraclius, in **A.D. 638**, issued an *Ecthesis*, which, like the previous decree of Zeno, forbade discussion of the debated subject under penalties. His successor, Constans, exchanged this, in **A.D. 658**, for a doctrinal compromise, or intermediate *Type* as it was called. Both decrees while they lasted were enforced upon the members of the Church by civil sanctions; and it thus became a point of conscience to resist them, and to keep the controversy open. Martin, the Roman bishop, convoked a council at the Lateran (of course without the consent of the emperor), which affirmed the two wills, and condemned opponents. He was dragged to Constantinople, and died in exile; and his adherents in the East were scourged and imprisoned. But his Church persisted, and the succeeding emperor, Constantine, invited the

succeeding Bishop of Rome to a conciliatory council in Constantinople in A.D. 680. The council, after long discussion, adopted the Roman view, with suitable explanations; and the empire duly proceeded to persecute those who dissented from the views which for half-a-century it had tried to crush.

Another interference of the empire, not so much in this case with doctrine as with ritual, had more disastrous results. About this time Leo III., a great soldier and administrator, who had begun his reign by hurling back the Saracens from the walls of Constantinople itself, committed the throne to a long and disastrous conflict with image-worship. It lasted, with some intermissions, for a century, and though the prohibitory legislation was sanctioned by a general council of bishops called in A.D. 754, its enforcement was protested against, even in the East, as being an act of the State beyond its province. The West resisted altogether. The emperor's deputy was killed at Ravenna, he was himself excommunicated by Gregory of Rome and the Latin bishops, and on the accession to power, in A.D. 780, of the Empress Irene, a strong opponent of Iconoclasm, another council, with representatives from Rome, was found willing, even at Constantinople, to restore the images. But the division of East and West was now at hand.

Rome, though pressed by the Lombards, had steadily grown as the spiritual centre of the invading Teutonic tribes. One of the latest of these, the Franks, had now consolidated its power in France and Germany, just in time to become the bulwark of Europe against Saracen invasion from the South. These invaders had already conquered Spain, and early in the eighth century they descended upon France; but in A.D. 732 were driven across the Pyrenees, after Charles Martel's victory at Tours. In 754, Pepin, Charles' son, on the pope's proposal, overthrew the Lombards; assumed the title of patrician, which the emperor's exarch had formerly held; and made a gift of Rome and the adjacent territory, now the most important part of that exarchate (of course without the emperor's consent), to the pope. In A.D.

774, Charles, called the Great, succeeded, broke the Lombard power, assumed the iron crown at Milan, and ruled as patrician or protector of the city of Rome for twenty years. Meantime he beat back the heathen Danes, Saxons, and Slavs on his furthest frontiers, and governed a mighty kingdom from the Baltic to the Ebro. Yet up to the close of the century he was nominally patrician under the Roman emperor, whose awful authority had remained unbroken even in the decline and fall since the days of Augustus Cæsar. The sole power which had existed coevally with the empire, was that of the Church; and even the Western Church, in all its pride of independence, remained unable to conceive of the world as wanting an emperor. But a great change, long prepared for, was coming. Irene, the regent-mother of Constantine VI., had deposed and blinded her Iconoclast son, and now reigned at Constantinople, surrounded by subservient bishops. Why should the head of the Roman empire be sought so far from Rome in the person of a woman and a usurper, when it might be found in Rome itself, in the person of a kingly hero and a defender of the faith? Such was the question put to himself by Leo the pope, when, delivered in 798 and restored to his temporal power by the arms of the great Charles, he meditated the revolt and schism of one-half the world. The answer was given at the memorable coronation of Charlemagne on Christmas eve of the year A.D. 800. At the high mass on that day, in the ancient Basilica of St. Peter, the barbarian monarch stood in the sandals and chlamys of a Roman magistrate before the high altar. Suddenly, the Pontiff of Rome, as successor of St. Peter, placed on his head the diadem of the Cæsars, and hailed Charles the Frank as "Charles Augustus, emperor, crowned of God."

It was the end of the old world, and the beginning of the new. Henceforth there was an emperor of the West as well as an emperor of the East. Henceforth, too, there was, and there is, a Latin or Western Church, as well as an Eastern or Greek Church; and they were already really, if not formally, separated. From

this point, accordingly, the problem of Church and State had a double history. In the West that history has been long, varied, and strange, and it still awaits its consummation. In the East there was a permanently arrested development, and during the four and a half centuries down to the fall of Constantinople there is almost no change to record. Before going on, therefore, to the great Middle Age history of Church and State in the West, we may complete what has to be said of the same period in the East.

Leo the Armenian renewed in the ninth century the Iconoclastic war which Leo the Isaurian had commenced in the preceding, and it was compromised in A.D. 842 by the restoration of pictures without "images" throughout the whole Greek communion. This century and the next were distinguished by the missionary zeal of the East; the conversion of Bulgaria and Moravia and other portions of the Slav and Turanian populations, was followed by that of the rising empire of Russia. In these new communions the metropolitans were Greeks; the doctrine and ritual were derived from the Greek Church; and the throne and Patriarch of Constantinople were regarded as the centre of ecclesiastical affairs. But all this failed to arrest the breach with the West. The addition to the ancient Nicene Creed of a *Filioque* clause by Pope Nicholas I. was protested against promptly by a council of the Greek Church. But this innovation was probably of less practical importance than the recognition by the same pontiff of those new decretals, on whose forged evidence the supremacy of the Roman bishop was alleged to have existed even in the early centuries. The pope and the patriarch had already mutually excommunicated each other, but in the regions where each ruled—and even in Byzantium and Rome—the worship of the other rite was for nearly two hundred years permitted. In the eleventh century even this came to an end. Basil II. sought to avert it by proposing, in A.D. 1024, to acknowledge the primacy of Rome in exchange for its acknowledging the independence of the East. But soon after this an attempt at negotiation gave

occasion for an open breach; and the Latin legates, in A.D. 1054, left Constantinople for the last time, placing on the high altar of St. Sophia an excommunication of its patriarch and of all who adhered to him. Christian feeling, however, was deeper than doctrinal or national division, and when, before the end of this century, the Seljuk Turks captured Jerusalem, and settled at Nicæa as the *Sultans of Rome*, it blazed up in the West into repeated Crusades. Unfortunately the friction occasioned by the passing of the Western armies through the East, and in particular the Latin annexation of Constantinople in A.D. 1204, restored the sense of hostility. Before this century closed, the emperors of the house of Palæologus had recovered Constantinople, but by this time the new or Ottoman Turks had commenced to annex the Eastern empire, not in Asia only, but in Europe. Another century of trouble passed, and now Constantinople was in extremity. The emperor, with his patriarch, went in A.D. 1438 to Ferrara and Florence; and, in hope of succour, conceded the points demanded by the pope. The sacrifice was in vain. The population of Constantinople protested against the defection, the expected succour never arrived, and on **29th May, A.D. 1453**, the Eastern empire fell in the breach of the wall of its capital with Constantine Palæologus.

The decapitation of the Eastern Church paralysed its limbs. The bishops had been accustomed to be ruled by the emperor, directly or through the Patriarch of Constantinople, and its Slavonic and other populations had no idea of ecclesiastical self-government. Besides, the greater part of the area of the Church was now under Ottoman rule; and the great conqueror Mahomet II. planned skilfully to put himself into the relation to it of Justinian and other Christian despots. Accordingly it was the Sultan who now appointed the patriarch and bishops, and he granted them judicial powers, not in Church matters only, but in civil questions, to be enforced over members of their own communion by excommunication as by other penalties. The result was that within the empire of Islam the rulers of the Greek

Church came to be Turkish, as they had been Byzantine, officials and administrators; while outside it those who had learned their creed from Byzantium leaned with more than Byzantine dependence on Slav and other rulers. But a new and great power was already on the horizon. Exactly a quarter of a century after Constantinople fell, **Russia** freed herself from the Tartar Moguls; and her Christian metropolitans at Moscow, no longer confirmed by or in communication with the patriarch, were henceforth elected by her own prince or his bishops. In the sixteenth century Ivan the Terrible took the title of Czar, and his successor receiving, in 1587, a visit from Jeremiah, whom the Turks had dispossessed from his patriarchate of Constantinople, persuaded or forced him to consecrate the Metropolitan of Moscow as Patriarch of Russia. As Russia rose in power, and pressed eastward, westward, and southward, the scattered fragments of the Greek Church more willingly acknowledged the independence of the new kingdom and of its patriarch. But while independent of those outside, the Moscow primate never ventured to differ in Church matters from the ruling of the Czar; and his whole patriarchal dignity came to a sudden close, as we shall afterwards see, in the days of Peter the Great, when the Russian Church received from the moulding hands of that great civil ruler its present form of government.

In Charlemagne and the empire of the West the Christian Church once more found itself, **A.D. 800**, in relation with the world-wide State. It was at least no national or provincial power with which it had to deal. Again, as when the one Kingdom was preached under Tiberius, and the one Church was set free under Constantine, its universal claims were met by an almost universal civil authority. The rise of separate nationalities in Europe was not yet thought of—the nations did not even exist. What was really in prospect, what did exist everywhere in germ, if not in attainment, was feudalism. The Northern tribes within and without the new empire refused to gather into cities, as the subjects of

Alexander and Augustus had done. In field and forest they remained freemen and freeholders, and only followed the men who could lead. But where a man could lead, they followed passionately, and grouped themselves around him. As yet, indeed, each man held his land in independence, "allodially;" but already the chiefs around the king were receiving from him "benefices," which their dependants occupied under them on a tenure of military service. On the same pattern the holdings all over Europe were yet to be converted into feus held of the lords. The primitive clan system was about to give way to that of a landed aristocracy. But in the meantime the half-fluid mass was held together in the centre of Europe by the strong hands of the Emperor Charles.

Charlemagne was a Christian king before he became emperor. His grandfather, Charles Martel, had found the Church already very strong among the people of the Franks, and in order to lessen the dangerous influence of the territorial bishops, he assumed the power of appointing and even of deposing them. This was not changed even when St. Boniface in 713 commenced the organization of the German Church in subordination to Rome —a subordination which previous missionaries from Britain had declined. Henceforth the whole body was held in much stricter hierarchical order, though the son of Martel maintained a firm feudal hold over many ecclesiastical possessions as feus of the State. But it was his grandson Charles who made a more celebrated settlement of these matters permanent, by his great bargain with the papacy. Crowned emperor by the pope, without any title except his conquest of Rome, he felt bound to carry out more than ever in his own kingdom his views in favour of the Church. He sanctioned the canon law. He abandoned the administration of the Church to the hierarchy, in its due gradation. He encouraged their holding provincial synods, whose meeting was convoked, and whose resolutions were confirmed, by himself. He confirmed the donation of the exarchate, and so founded the Temporal Power, though it was a power to be held of himself as Over-Lord. In his own dominions he not only

gave rich gifts to the Church, but he established everywhere *a tithe*, or tax on land, one-third of which went to support the bishops and clergy, one-third to maintain the edifices of the Church, and one-third to the poor. Another great change related to patronage. Before his time the landholders who had endowed Churches claimed the right of appointing the minister. It was often protested against in vain, but a few years after his coronation as emperor, Charles ordained that no cleric should be appointed to or dismissed from any charge without the consent of the bishop. In two points especially he still maintained a certain supremacy over the Church. One was the appointing and deposing of the bishops, which he kept in his own hand, their benefices being held feudally of the emperor, and their vassals being bound to do the usual service in war. Another was the power of legislation. The emperor's capitularies regulated much even of the discipline of the Church, though the carrying out of these regulations was done generally by the ecclesiastics themselves.

More important even than these arrangements for his own realm was that primacy in Christendom and among its sovereigns which Charlemagne was the first to erect, and which became known through all the ages of mediæval Europe as the **Holy Roman Empire.** The long supremacy of ancient Rome over all peoples had suggested the idea of their being really one, and a universal religion and a universal Church had familiarized men still more with the same idea of unity. Another step was now taken. "As the whole Christian people throughout the world forms one republic, it must of necessity have one chief," was the Middle Age theory (Engelbert, A.D. 1331). In spiritual matters this had already transformed the Christian republic into a papacy. In secular matters the same instinct now led feudalism to a similar subjection. Each of the two potentates had his own sphere. "It matters not whether we call the Pope a spiritual Emperor or the Emperor a secular Pope" (Bryce). But as the one ruled over the souls of men, so the other ruled over their bodies. Indeed,

the favourite Middle Age metaphor to express the relation of the Church to the State, of the papacy to the empire, is that of the soul to the body. Only, in this new theory, the empire (differing thereby from that of Augustus and even of Constantine) was essentially holy as well as Roman : the emperor was necessarily Christian, and his empire could be neither more nor less than Christendom. The electoral oath described him as "the temporal head of the Christian people," and one of his highest titles was the "Defender and Advocate of the Christian Church." For as the pope was God's Vicar in spiritual things, so the emperor was God's Vicar in temporal things. Such was the devout imagination that shone with a twofold splendour before all the feudal ages. In its details the theory was not always the same. Some gave the pope a merely honorary authority over his bishops, as some gave the emperor merely a nominal authority over his princes. Others made the former an absolute monarch in the Church, and the latter an absolute monarch in the State. All alike forgot the representative rights of the people, as distinguished from the rights of princes and bishops, emperors and popes. Some, again, in judging between the two powers, gave a certain superiority to the emperor, others to the pope. And all these inequalities of theory were rudely reflected and exaggerated in history. But the theory itself—the union of the two distinct and contrasted powers—always remained. And the influence of the theory on the mind of mediæval Europe at any particular time, is not to be measured by the degree in which it happened at the time to be realized. Often there was a weak emperor. Often there was a wicked pope. But that did not shake the system. On the contrary, men clung all the more to their ideal because of the miseries which falling short of it, on either side, seemed invariably to bring upon the world.

## CHAPTER IV.

### CHARLEMAGNE TO BONIFACE VIII.

CHARLEMAGNE'S death in **A.D. 814** introduced a period of confusion and weakness. His feeble successors tried in vain to keep the Roman people and their ecclesiastical sovereign faithful to their Frankish over-lord. The popes, on the other hand, being without character and influence, lost their authority in Germany. But the weakness of the central authorities, the dismemberment of the empire, and the disgrace of the papacy, gave all the more strength to the power that was pressing up under them in detail. That power was Feudalism in the State and Episcopacy in the Church. The great barons and the great bishops more and more assumed the rule of the world. The princes independent of Cæsar, the prelates independent of the pope, ruled each in their own sphere ; the strong ruled wisely and the good ruled well, but in most cases as arbitrarily and with almost as little title as either the Cæsar or the pope. It follows, of course, that each corner of Germany and of Europe must have continually reproduced the same question of Church and State, the same counterpoise or collision of the secular and spiritual, which we can only trace when it is illustrated on a world-wide scale.

Otto the Great, in **A.D. 852**, reconstituted the empire of Charlemagne on the same ecclesiastical foundation. Crowned at Rome by the pope, he had first taken an oath to protect the Holy See and the liberties of the city of Rome. The citizens, on the other hand, took an oath to elect no pontiff for the future without the emperor's consent, and the pope acknowledged his secular sub-

jection to the emperor. In the hands of the great Saxon, and in those of his successors, Otto II. and Otto III., the imperial power rose to its height. The licentious intrigues of Italian princes, and the turbulence of the Roman populace, were the chief dangers to the Church. But the Saxon emperors used their right to confirm the election of each pope so as to make it almost a right of nomination, and a succession of able Northern bishops in the Holy See did much to purify and advance the papacy.

Under the Franconian emperors the papacy reverted to Tuscan princes, whose profligacy and venality gradually disgusted the world. At last, in **A.D. 1046**, Henry III., the most powerful of all the emperors, crossed the Alps, and convoked a synod, which deposed three contending popes. Thereafter a right of nomination was conceded to the emperor during Henry's reign in three successive vacancies of the popedom : the Romans sent formal deputations to the emperor to know whom in each case he would approve as successor. The German prelates whom he suggested were generally such as the Christian world would have chosen had the election remained in its hands ; and during his reign the organization and purification of the universal Church within the Holy Roman Empire prospered more and more. The Church was indeed so strong in the allegiance of the whole West, that it was certain it would not long submit to the subjection, or at least limitation, imposed on it by the imperial prerogative. Church and State were both at their height of power, and their greatest contest for supremacy was at hand. The signal was given when, in **A.D. 1056**, Henry died, succeeded by a son four years old.

The papacy had no minorities, and the Archdeacon Hildebrand, now the most influential man in Rome, saw that the time had come for curbing the interference of the civil power in Church elections. The foremost question was the election of the pope himself ; and a singularly rapid succession of these gave a great opportunity. First Victor and then Stephen were elected without the previous nomination of the Empress-Regent. A third pope, Nicolas II., under the guidance of Hildebrand, now a

cardinal, revolutionized the ancient election of the Bishop of Rome, which, like that of all others, had been by the concurrence of clergy and people. His decree of 1059 now gave the initiative of the election to the cardinal bishops in the neighbourhood of Rome and the cardinal priests in that city. (Certain chief functionaries, in the Roman as in other Churches, being the "hinges" on which the rest of the machine moved, had come to be called "cardinals;" and their elective assembly was afterwards known as the "conclave.") On being elected, the new pope was still to be presented to the emperor, but whether for the latter's confirmation or his mere acknowledgment was left doubtful. Accordingly the next pope, Alexander II., on his confirmation being refused by the Empress-Regent, was consecrated notwithstanding (in 1061); and after a struggle, in which the German princes and prelates sided with the pope against both their own emperor and the Roman laity, he was universally acknowledged. The victory on this head was gained, but a greater battle was to be fought; and at the next vacancy Hildebrand himself ascended the papal chair.

**Gregory VII.**, most famous of popes, succeeded in **A.D. 1073.** Born the son of a carpenter, he commenced his career as the monk Hildebrand; and knowing thus how celibacy binds to the Church by detaching from all else, his first act on becoming pope was (1074) to issue a bull excommunicating all married priests, and to send legates with it throughout Europe. His next, in 1075, was no less than a prohibition of that *investiture* of bishops and other dignified clergy which the emperors had for three centuries exercised in their dominions. The great question thus raised lasted far beyond his own struggling life, and must be looked at in next paragraph independently of any particular pope. The conflict for which this pope is most celebrated was one of a more personal and picturesque kind. Hildebrand, it should be remembered, never went so far as (with some of his successors) to deny that the secular sword also was held immediately of God. His was the general Middle Age theory, which accepted the

relation of Church and State as something like that of the soul to the body. What was new was not the theory but the man who held it. Here, at last, was a pope who was penetrated with the conviction that the soul and the Church were in their own nature entitled to ascendancy over the body and the State ; and who, above all, had himself that ascendancy of will which made him shrink from no act, however daring, which could illustrate such a superiority. The occasion at once presented itself.

Henry IV. had now emerged from the long minority of which the popes had made so good a use, and the arbitrary and vicious acts of the young monarch were complained of by some of his northern subjects. Gregory at once summoned him to appear at Rome, and be judged. The emperor, irritated, convened a synod of the German Church at Worms, which declared the pope to have forfeited his high place, and called on him to "come down." Gregory saw that the time had arrived to strike a tremendous blow. From a council in the Lateran he excommunicated the yet uncrowned emperor, interdicted him from ruling his kingdoms of Italy and Germany, and absolved all his Christian subjects from their oaths. The spiritual stroke paralysed the unwieldy secular power. The great northern bishops shrank from the side of their excommunicated lord ; Swabia and Carinthia prepared to follow the Saxon revolt against him, and most of his princes called upon Henry to submit. Suddenly, in the midst of the fierce winter of 1077, the monarch crossed the Alps to seek absolution, and made his way to where Gregory dwelt as guest of the Countess Matilda in her fortress of Canossa. For three days successively, the lord of the world stood from morning to evening in the outer court of the castle, in woollen shirt and with feet bare, petitioning in vain for admittance. Not till the fourth day was absolution granted to his weeping submission. Gregory lost not a moment in publishing the astounding transaction to the world. But his fickle penitent soon repented the memorable repentance, and the pope found he had gone too far. The German princes, indeed, elected Rudolph instead of Henry, and

the pope was said to have sent him a crown with the inscription :—

"Petra dedit Petro, Petrus diadema Rodolpho."

(What Christ to Peter gave, Peter to Rudolph gives.)

But Henry, again excommunicated, prospered and strengthened, slew Rudolph, overran Italy, captured Rome, acknowledged the Archbishop of Ravenna as pope, and was crowned by him in triumph in the basilica of St. Peter. Hildebrand escaped with difficulty from the castle of St. Angelo, for even the Romans now rejected him; and next year (1085) he lay on his death-bed in Salerno, and with his expiring breath absolved the multitude who might have been carelessly included in the sweep of his old anathema. Yet his last words were, "I have loved righteousness and hated iniquity; and therefore I die in exile."

**A.D. 1075.**—The **Investiture** controversy is one of the most instructive in the history of Church and State. The word belongs to the feudal system, in which the superior formally gave to his vassal lands or office, to be held under himself. When he so handed them over, he was said to *invest* the vassal in them. But as neither lands nor office can be literally handed by one man to another, the investiture was done by handing some appropriate symbol. And these symbols were not always the same. A sod might represent a piece of land, and a key might stand either for the house to which it gave admission, or for the office of chamberlain conferred with and by it. Now, among the most powerful vassals of the emperor, holding broad lands under him as over-lord (though for the use of the Church), were the bishops. When a count of the empire died, his son came to the emperor asking to be "confirmed" in the lands as successor. And when a bishop died, the new bishop had to do the same. But when in this age the emperor invested a bishop as his vassal, he did it by handing him a "ring and staff." Now these were the ancient and well-known symbols of the bishop's office, and it might well

seem as if the sacred office itself were being conferred by the secular prince. The avowed object indeed was otherwise. The emperor, as judge in matters temporal, had a right to decide whether the new applicant had a title to the lands; and as overlord, or feudal possessor of the land under God, had a right formally to hand them over to the true and lawful vassal. And these rights had pecuniary results. They secured to the prince from the Church-vassal payments and services corresponding to those of other vassals—the *servitium* in time of peace, and a certain number of fighting men in case of war. More important still, as soon as the Church office became vacant, the emperor or patron drew its revenues (under the name of the *regale*) till it was filled up. But the power to give or refuse investiture (like that of giving or refusing confirmation to a secular vassal) was of course the source of immense political influence and pecuniary profit. In many cases it practically gave the emperor that nomination of the bishops which had been exercised by his predecessor Charlemagne without any disguise. To this enormous and illegitimate influence of secular investiture Hildebrand had already provided an illegitimate counterpoise. A decree issued under his influence by his predecessor, Alexander, forbade all bishops to accept office without confirmation or investiture by the pope. Equal claims were thus made upon both sides, and so long as a large part of the property of the empire was tied to Church functions, the question was sure to recur whether the emperor was to control the Church functions through the property, or the pope to control the State property through the functions. Suddenly, on this equipoise of papal confirmation and imperial investiture, fell the new pope's prohibition of all lay investiture whatever. It was in 1075 that Gregory in council proclaimed, that no ecclesiastic must take either bishopric or any inferior dignity "from the hands of any lay person," and that neither emperor, king, nor other secular power should presume to grant it. It was the beginning of a fifty years' war, of which Canossa and Salerno were but the earlier landmarks. Gregory died in exile, but his

successor, Urban, was supported by crusading enthusiasm ; and Paschal II. continued the contest till Henry also at last died in 1106. His son, Henry V., had been encouraged to rebel against his father ; but on succeeding to the throne he was found by the Church equally impracticable. At last the pope in despair offered to cut the knot that bound the two parties together. Let the Church (Paschal proposed in A.D. 1111) give up all lands to the emperor, and let the emperor resign all claims to homage from the Church. The unworldly solution, however, was protested against alike by German prince-bishops and Italian cardinals, and so the strife went on. Popes and anti-popes were driven into exile alternately ; till at last a settlement was made by Calixtus II. at the Concordat of Worms in 1112, which was ratified afterwards by the Lateran Council in 1123. By this, the first of the greater Concordats, an arrangement was made which is full of instruction. The pope on his side withdrew the absolute prohibition of investiture, and promised that elections should be made "in presence" of the emperor, and without simony or violence, so that if a question should arise between candidates, the emperor might support "the better party." Investiture in the temporalities or *regalia*, the bishop was now to be allowed to receive at the hand of his feudal superior, even *before* consecration. But it was to be by receiving the secular symbol of the sceptre, not those of "ring and staff." Investiture by ecclesiastical symbols, Henry on his side resigned for ever,[1] and he further pledged himself that both election and consecration should remain in the hands of the Church, and that the homage to him "by sceptre," to be interposed between the two, should interfere with the freedom neither of the previous election nor of the subsequent consecration. It was in some sense a drawn battle ;

[1] In curious feudal form : "I, Henry . . . do resign to God, to his Holy Apostles, St. Peter and St. Paul, and to the Holy Catholic Church, all investiture by ring and staff." So, on the other side : "I, Calixtus, do grant to thee, Henry . . . that the person elected may be admitted by thee to the royalties of his office by the delivery of a sceptre, and may perform to thee whatever on account of these is due."

and in the result an obvious attempt is made to conform to the traditional principle, and give to Cæsar that which was Cæsar's, and to God that which was God's. The Church had not got all that Gregory had demanded half-a-century before. But it had got much more than at the beginning of that stormy half-century it had possessed.

And time was on its side. With the twelfth century had fairly commenced that great movement of the human mind in Europe, which has not yet ceased, and in which events like the Reformation in the sixteenth century and the Revolution at the close of the eighteenth have been but the mightier waves. Before the mass of the people could take an intelligent share in that movement, some centuries were yet to pass. But those centuries embraced the later and more splendid period of the Middle Age, and in them the conflict of Church and State came to its height. Some things in the new awakening, like the outburst of vernacular literatures in the new languages of Europe, were from the first unfavourable to the papacy. Others, like the founding of the universities, the spread of scholasticism, and the revived study of law, had an influence sometimes in its favour and sometimes against it. But on the whole, the strongest intellectual influences poured themselves along the channel which the Church alone, or the Church chiefly, seemed in that age to open to intellect. No more impressive memorial of this time can be found than in the architecture which it bequeathed to Europe ;—the cathedrals especially, whose climbing and soaring magnificence still suggests "a *sursum corda* uttering itself in stone." [1] But equally memorable, though they now only meet us in history, are the Crusades, which from A.D. 1095 to A.D. 1291 burst out successively as the wasteful and blood-red blossoms of an age of chivalry. Both extended during the same period, and both were evoked by the call, or carried on by the sanction, of the Church. And the Church, which on the whole gained more from the awakening

[1] Dean Church.

genius of Europe than did the empire, had now acquiesced in the ever-rising claim of Rome to be not only its judge, but its ruler.

For the pope had long since exchanged his voluntary jurisdiction —that which the Bishop of Rome had exercised as arbiter in the Church, between those only who *chose* to submit Church questions to his decision—for the claim to be by divine right the one appellate judge of the ecclesiastical body. Yet even the claim to be universal judge, startling as it would have been in the time of the early episcopate, fell far short of the pretension to be universal legislator, and even direct governor. It is easy, however, for one who professes to be supreme judge to assume the legislator. It is indeed almost impossible to do otherwise ; and accordingly the "judge-made law" of Rome was already colossal in its proportions. So, too, at the time of which we speak, the ceaseless effort to sweep everything in the daily life of the Church under the appellate jurisdiction, was gradually translating that jurisdiction into one not appellate. It was rapidly becoming a real government and superintendence of the whole Church, worthy of that great name of "universal bishop," which St. Gregory in the sixth century had rejected with horror, on the ground that if a universal bishop erred, the whole Church might collapse. In the middle of the ninth century had appeared the forged "Decretals of Isidore," which formed the legal basis of the papal monarchy during the greatest age of its existence. This was a collection of pretended decrees of early councils and letters of early popes, all exalting the bishops, but at the same time submitting them to the supervision of the pope. The document did not originate in Rome, but among the Western Franks. But Rome at once recognised it, and formally built upon the newly invented testimony its claim to supremacy. So when, two centuries later, another Gregory gave that claim magnificent embodiment, he included all these documents in the **Decretum** of Gratian, the recognised code throughout the Middle Ages of the canon law. With such powers and pretensions increasingly acknowledged in the Church,

it was no wonder that the papacy gained more and more on the empire.

A.D. 1125.—The great Franconian dynasty of emperors terminated, to be succeeded by the equally celebrated Hohenstaufens. Between the two, however, the Saxon Lothair III. gave up much to the popes. Since the days of Hildebrand these had ceased to ask, like their predecessors, confirmation of their election by the Roman emperor. They had escaped even from what was much more clearly their duty—to do homage to the emperor for the lands conferred upon them by Charlemagne. And now the question raised was rather, whether the emperors themselves did not *hold* of the pope. With regard, at least, to certain ecclesiastical lands in Italy which had belonged to the Countess Matilda, Lothair consented to invert their position, by the emperor becoming the pope's vassal. (He received investiture of them from Innocent II. by the symbol of the ring, to return at the death of each emperor to "the blessed Peter and his successors.") In Italy itself, on the other hand, the evils resulting from such temporal power was already manifest, and Arnold of Brescia, described as a "tearing and biting reformer" from the philosophical school of Abelard, urged that the clergy should possess no secular property whatever. The populace of Rome accepted the doctrine with its old republican fervour. But over Europe generally the papal influence was maintained by the enthusiasm of the Second Crusade, fed by the fiery eloquence of the great Bernard. All this gave great interest to the accession in 1152 of Frederic I., named Barbarossa or Redbeard, the most brilliant of the emperors, "a sort of imperialist Hildebrand,"[1] who at his coronation refused at first to follow the example of Lothair, in holding the stirrup of Pope Adrian. On the point of ceremony the emperor yielded for the moment, but his independence produced soon after a letter from the pope, reminding him that he had given him the crown, and was willing to give him still greater

[1] Bryce's *Holy Roman Empire.*

*beneficia*. The ambiguous phrase provoked shouts of indignation from the feudal princes who elected the emperor, and who were now met in diet at Besançon. "From whom, then," replied the papal legate, "does the emperor hold his power, if not from our lord the pope?" Count Otto Palatine at once drew his sabre, to cut down the priestly traitor, but Frederic interfered, and Adrian afterwards explained that a "benefit" did not necessarily mean a "benefice." Yet, when the question was soon after raised, whether the city of Rome was to be governed by the Roman emperor or by the pope, the same arguments were on both sides employed. "I am Emperor of the Romans, by the appointment of God," said Frederic, and he refused to be so merely in name, or to hold of another. Adrian replied by attacking the title of the successor of Charlemagne and Cæsar. "What is the German king till he has been consecrated at Rome? The Chair of Peter can withdraw the gifts which it has given." Frederic held a Parliament in Italy, and had his rights as Roman emperor and "lord of the world" defined by the civilians of Bologna from the civil law. "That which pleases the emperor," said the Archbishop of Milan, "must have the force of law, for the people have transferred to him all their own sovereignty and authority." Adrian resented the unmeasured claim, if not for the people, at least for the Church and its officers, and was about to pronounce the ban, when he died. But after the death of this (the only English) pope, the struggle was continued by Alexander III. This powerful ecclesiastic, threatened by the great emperor with a general council of Christendom, and with a rival claimant, whom Barbarossa had already set up, appealed successfully to churchmen throughout the world; maintained Thomas à Becket against his sovereign in Britain, and canonized him when dead; crushed Arnold and his Roman republic with the help of the German power, and then leagued against the emperor himself the Lombard and other cities, until he broke his Italian predominance on the field of Legnano. The great Hohenstaufen never sank to such humiliation as the Franconian Henry had done at Canossa; but his

sudden submission at Venice in 1177 was equally complete and more conclusive. There, "where the crimson slab still stains the marble floor of St. Mark," the most chivalrous monarch of Christendom threw himself on his knees before the anti-pope he had rejected, and, receiving the kiss of peace withheld during twenty years of conflict, published his repentance to the world. Thirteen years later, when the conquest of Jerusalem had evoked the Third Crusade, Barbarossa died in Asia Minor, on his way to fight with Saladin. He left behind him a great name and a magnificent empire ; but he left the papacy proportionally greater, and its seat was about to be filled by the mightiest of the popes.

**Innocent III.**, young, noble, eloquent, and learned, a man of marvellous administrative and legislative energy, began his career in **A.D. 1198**, with a far higher keynote than Hildebrand. In his inaugural discourse he claimed to be "the Vicar of Jesus Christ, appointed to stand between God and man, below God but above man, the judge of all men and judged by none." All through his life nothing was omitted to fulfil this wide-reaching claim. He began by consolidating the basis of the temporal power. Hitherto the city of Rome had enjoyed a certain freedom, and its prefect had ruled under the emperor of the Romans. Innocent at once made him take the oath of allegiance to himself, and appointed his own judges instead of those of the senate. In Northern Italy he consolidated against the empire a league not only of the Lombard but of the Tuscan cities. In the South he took possession of the Norman kingdom of Sicily, as a fief to be held by the infant Frederic under the papacy. Against such an opponent the empire was in no case to contend. On Innocent's accession he found its seat vacant, and the two candidates appealed to his arbitration. He at once declared the absolute right of the pope to determine any such question, whether referred to him or not, seeing that the right to choose an emperor at all had originally come to the Diet from the Apostolic See, which had "transferred" from the Greeks to the Germans the imperial power of Rome. And before deciding in favour of Otho, he

received from him a submission, which was carried out even to the extent of renouncing the *regale*.[1] Having thus humbled the only possible rival of his throne, Innocent lost no time in proclaiming himself as, by virtue of his office, the general arbiter of differences and conservator of the peace throughout Christendom. "It is my province," he reasoned, "to judge where sin is committed, and it is my duty to prevent all public scandals." On such a principle there was no part of the world where he could not, and did not,[2] interfere; and, while discouraging frivolous appeals against bishops, who were now no longer the objects of papal jealousy, he claimed the world for his province.[3] He excommunicated Sweno for usurping the crown of Norway. He interdicted Church services throughout Spain, till the King of Leon divorced his cousin, a princess of Castile. He summoned Philip of France to take back his divorced wife. This monarch, brave and wise, and strong in the solid support of the French people and Church, refused, and retaliated. Innocent laid the interdict of the judge-ruler upon the life of the whole Church of France. The dead were unburied, the living were unblessed; the clergy soon submitted to their foreign head, the people followed, and compelled their king to obey, after a struggle more obstinate than any other which the history can show. But this occasional interference in the affairs of distant countries was less striking than the determination to subject them to the pope as overlord. Innocent received from King Peter II. homage as

[1] See p. 74.

[2] This was the only age of the world to which the remark of Hallam does not apply—that the claim of Rome to depose sovereigns is "like the retractile claws of some animals, which would be liable to injury were they not usually sheathed." What the *sheath* is, however, may be seen by looking accurately at the claim itself. It never was, even in Innocent's time, a right to depose a sovereign, but merely to pronounce that he ought to be deposed. It becomes thus an incident of the divine right to be universal arbiter. The qualifications for such an office, ascribed to the pope by the Council of the Lateran, were great. But those recently conceded to him by that of the Vatican are greater.

[3] Non universam ecclesiam solum, sed totum seculum gubernandum.

from a feudal inferior for his kingdom of Aragon. He declared King John deposed from the throne of England, and invited the French king to carry out the sentence. John, in terror, offered homage as a vassal to the papal legate for the crowns of England and Ireland, and Innocent accepted it, and assumed the position of feudal lord of both. When he annulled the *Magna Charta* (by which John was forced to declare the independence of his Church and kingdom), he declared explicitly, that as the power and property (dominium) of the realm belonged to the Roman Church, its vassal-king could make no change in its condition to the Church's prejudice. Partially successful, however, in the kingdoms of the West, the ecclesiastical monarch made a great conquest towards the East. The crusaders restored Constantinople to the Latin Church, and an Eastern patriarchate was held for half-a-century under the Bishop of Rome. The Kings of Bohemia and Hungary in the north, and of Bulgaria and Wallachia in the south, became at once the temporal vassals of the pope, and did him homage for their lands. A secular prince in Italy, and a spiritual ruler over all princes, Innocent held in 1215, the year before his death, the Fourth Lateran Council, in many respects the greatest which has ever been assembled. The East was once more represented, as in the early centuries; and the North had not yet cast off allegiance to Rome. Its legislation (besides advancing tenets, like transubstantiation, to the rank of binding dogma) did much to consolidate the minute care of the Church against private judgment and individual inquiry. All through previous ages the regular or monastic clergy, by their dependence on the central power rather than on their own diocesans, had mightily advanced the supremacy of Rome, first over the episcopate, and then over the world. In the reign of Innocent III. the same result was further promoted by the establishment of the two great mendicant fraternities, the Franciscan and Dominican. Both were at first enthusiastically devoted to the pope; and the sleuth-hound zeal of the latter body had already, in many countries, established the Inquisition, as a domestic guardian of

the purity both of faith and morals. This pope had, without delay, made use of these fervent religious influences by turning them with exterminating energy against whole communities—the Waldenses in Switzerland, and the Albigenses in southern France. For, supreme as the external system of Rome was now, there were, of course, innumerable revolts of the individual conscience and will. And against these the last council of Innocent—strengthened in detail by another held in 1229 at Toulouse—took the most careful precautions. Bishops were yearly to inquire for heresy in all their parishes, on pain of deprivation; to put individuals on oath; to excommunicate all the suspected who should be unable to purge themselves; and after a year of excommunication, to condemn them as heretics. And what results ought such excommunication to draw after it on the side of the State? The answer of the Church, by its council and its head, is too plain. The views of Theodosius, rather than of Constantine, were sanctioned by pope and council; and not only sanctioned, but carried to an extreme. All kings and princes are called upon by the Church to swear to purge out of their lands all whom the Church shall condemn. The prince who fails to do so shall be excommunicated; and after he has been unrelaxed for a year, his vassals shall be absolved from their allegiance, and better Catholics, designated by the pope, shall extirpate the heretics and enjoy the forfeited territory. Such was the machinery—gigantic in its world-wide sweep and microscopic in its inquisitorial discrimination—which bound the fetter first of the Church and then of the State upon the conscience of the Middle Age.

**A.D. 1212.**—In the person of the Second Frederic the empire tried a second struggle with the papacy, and again it failed. This was that extraordinary prince spoken of in his own age as "The world's wonder,"[1] and not without reason. "A sensualist, yet also a warrior and a politician, a profound lawgiver, and an impassioned poet; in his youth fired by crusading fervour, in

[1] "Stupor mundi Fridericus."

later life persecuting heretics, while himself accused of blasphemy and unbelief, succeeding ages looked back with awe, not unmingled with pity, upon the inscrutable figure of the last emperor who had braved all the terrors of the Church, and died beneath her ban" (Bryce). Even at his coronation he put the cross on his shoulder, and he set out for the East as King of Jerusalem, though not till the aged Pope Gregory IX. had excommunicated him for delay. Then followed reconciliation and peace; but the Italian interests of Rome were inconsistent with the Hohenstaufen and imperial rights, and another quarrel in 1239 set the one side of the Alps against the other, and the empire against the Church. In most of these contests the popes maintained themselves against the feudal lord of Europe by the help of the rising Italian municipalities. This new and popular power gained strength from every year of contest; and in Italy it was generally, of course, on the side of the Church. Soon Gregory again put Frederic under the ban: Frederic appealed to Christendom: Gregory called a council: Frederic captured the prelates. On Gregory's death, however, Innocent IV. held the council, and called on prince after prince to set himself up as rival emperor in Germany. The attempts failed, and in 1250 Frederic died in his ancient kingdom, summing up his reign of nearly forty years by a direction in his will that all the rights of the Holy Roman Church should be restored to it, provided the Church restored the rights of the empire. But the Church pursued the contest with his successors, pope after pope taking it up, until at last, in A.D. 1268, the great Swabian dynasty fell as the Franconian dynasty had fallen before. Charles of Anjou, invited by Clement IV., overthrew and captured the grandson of Frederic in battle; and the young Conradin, the last of the Hohenstaufens, perished on the scaffold. Amid the internecine struggles of Western Christendom, its Eastern conquests were lost. Jerusalem was recaptured by the Saracens in 1247, and Constantinople by the Greeks in 1261. On the other hand, each new German emperor, before being crowned, now acknowledged the supremacy of the pope;

and this was done emphatically in 1273 by Rudolph of Hapsburg, the new founder of the imperial house of Austria. With the Swabian dynasty, indeed, all real predominance separated from the Holy Roman Empire; and the time was come for a pope to arise, if not more powerful, at least more audacious than even that long succession had revealed.

Boniface VIII. (A.D. 1294) crowns the papal edifice of the Middle Age. "As Gregory VII. appears the most usurping of mankind till we read the history of Innocent III., so Innocent is thrown into the shade by the superior audacity of Boniface" (Hallam). A man of high powers, trained in the now all-ruling Roman Curia, but of *morale* much inferior to the great rulers with whom he has been compared, he came to the papal chair at a time when a less arrogant nature than his might well have been intoxicated by their past success. He thus failed to see that the bow had been overstrung, and that all through the world a dull resistance to the ecclesiastical tyranny was beginning to be felt. Two great sovereigns, Philip the Fair of France and Edward the First of England, were heavily taxing their clergy. Boniface authorized the priests to withhold the contribution; but in both cases the monarchs threatened held on their way. Such signs did not prevent the pope, when the pilgrims crowded to his great jubilee of A.D. 1300, from appearing on the throne of the ancient mistress of the world, crowned, indeed, with the Church's tiara, but also girded with the secular sword, and shouting in sonorous tones, "I am Cæsar; I am emperor." Ere long another quarrel with France gave him the opportunity of uttering his new theory —or his variation of the old theory of Hildebrand—more deliberately. His legate, a French bishop, spoke so haughtily to Philip, that the French king arrested him for treason. Boniface hurled bulls at the king, but the latter convoked his States-General; and nobles, clergy, and third-estate declared that in temporal matters the king had no superior on earth.[1] In a consistory at

[1] Around and within the University of Paris, the literary and philosophical contest against the papal power, carried on in the next generation by Occam

Rome the pope instructed the Gallican clergy in the nature of the secular as well as sacred power of the pope; and the bull *Unam Sanctam* preserves the terms in which he addressed on the same subject the Church universal: "The Church has one head; not two, like a monster. . . . The spiritual and the material sword are both in the power of the Church, but the former is to be used by the Church, the latter only for it. The former is in the hand of the priest; the latter is no doubt in the hand of the monarch and the soldier, but it is to be used at the pontiff's beck and will (*ad nutum et patientiam sacerdotis*): the one sword must be subject to the other, the temporal to the spiritual. . . . We declare, define, and pronounce to every human creature that to be subject to the Roman pontiff is absolutely necessary to salvation." Philip, excommunicated by the pope, called his States together again, and appealed from the pope to a council. Nogaret, the Keeper of his Seal, went with the demand to Rome; but Boniface retired to Anagni, from whence bull after bull was issued against France. Last of all there was prepared one for the dethronement of Philip; but before this was launched, Nogaret and Colonna captured the pope in his native place, and made him prisoner. He was rescued, indeed, by his Anagni townsmen, but a violent sickness, the consequence of the outrage, immediately carried him off. Philip remained victorious as the assertor of the independence of the secular power in his own sphere; and Boniface, who had attempted more than any of his predecessors, achieved less, and broke by this first check the spell of the uninterrupted advance of centuries. And even before that historical result had declared itself, a great voice, inspired by the "terrible sagacity" of the poet's heart, had expressed the judgment of the conscience of his own time upon his claims, and the theory on which they were based.

and Marsiglio, was begun for the French monarchy by men like Egidius (a Colonna) Archbishop of Bourges, and John of Paris (a Dominican). Their works, with some of the most important of those of their successors, may be found in the collection of Goldastus.

Dante, the solemn master of mediæval song, in whose writings the system of Church and State in the form of papacy and empire survives for ever, lived at this the culminating point of the history. The year when Boniface held his jubilee was that very year, midway in the mortal life of the poet, when he dates his descent into hell.[1] There, within its eighth circle, in a cleft of the lurid rock of the third gulf of Malebolge, one pope, already damned, mistakes the footsteps of Dante for those of his own successor still living and robed in the "mighty mantle," and clamours for the more accursed Boniface to replace himself in the fiery doom.[2] And yet Dante looked upon both Boniface and his predecessor as the undoubted heads of the Church; indeed, in his *Purgatory* he brands Philip of France as the new Pilate who, at Anagni, had done violence to Christ "in His Vicar."[3] This twofold justice reflects the feeling of his own and previous ages, and we look with increased interest to discover the poet's theory of the cause of a world-wide evil. It was not the personal sin of simony in prelate or in pope. It was not alone the famous donation—"Ah! Constantine, of how much ill the cause!"[4] It was that the Church, tempted by this and other secular advantages, had now come to confound the two governments by assuming the temporal power—to confound them in its own favour, but to the injury of both, so that by this time "the sword is grafted on the crook!"[5] Dante, meshed himself in the complicated

[1] *Hell*, i. 1, and xxi. 3.
[2] *Hell*, xix. 55.
[3] *Purgatory*, xx. 86.
[4] *Hell*, xix. 118.
[5] "The cause
Is not corrupted nature in yourselves,
But ill-conducting, that hath turned the world
To evil. Rome, that turned it into good,
Was wont to boast two suns, whose several beams
Cast light on either way, the world's and God's.
One since hath quenched the other; and the sword
Is grafted on the crook.
The Church of Rome,
Mixing two governments that ill assort,
Hath missed her footing, fallen into the mire."
—Cary's *Purgatory*, xvi. 108.

miseries of his time, was unable to disentangle his imagination from the memories of the past, and turned them instead into passionate hopes. A firm believer in imperialism both in Church and State (as his treatise *De Monarchia* shows), he could not conceive how either should exist as a self-governing commonwealth under an invisible King, and his only remedy against absolutism in the universal Church was a counterpoise of absolutism in the universal State. So he sighed for the empire. But the empire as the counterpoise to the papacy had already lost its power. A wholly different system was beginning to appear.

## CHAPTER V.

### BONIFACE TO THE REFORMATION.

CONTEMPORANEOUSLY with the culmination of the papal power about **A.D. 1300**, we are called to observe a new thing in modern history—the existence of national Churches. The rise of nationalities and the formation of the European kingdoms have already to a large extent taken place. But with the commencement of the fourteenth century these States commence as such to exert a distinct influence in Church matters. They do more; they assert a certain independence, ecclesiastical and civil. And as the protest against foreign Church authority helped the national feeling to come into existence, so that feeling in its turn consolidated the independence of the local Church. The conflict between France and Boniface brought this first to the surface on a great scale; but it had been going on in other nations also, and we must now pause to notice it. Everywhere there are unmistakeable signs of what the earlier ages of Christian history would have counted a paradox. The time was coming, and it came two centuries before the Reformation, when Churches were to be national in the sense of each being not merely, as of old, locally separate, and in that sense independent, but in the sense of its being coincident with and dependent upon a European State.

The earliest of the Western powers to assert its national independence of Rome was **England**. To this the insular position of a people, "utterly divided from the world," no doubt chiefly contributed. The Celtic Churches had been independent of

Rome; and even the Anglo-Saxon Church of England, though dating back to the missionary zeal of Gregory the Great, was strongly national, territorial, and local. The County Court ruled all things in the county, and both bishop and alderman were ordered to sit in it, "each of them there putting in use both God's law and the world's law." William the Conqueror brought the kingdom into much closer connection with the Roman See. The pope, appealed to as arbiter by William, though not by Harold, had blessed the invasion of A.D. 1066, and William at once introduced the Roman liturgy, the Roman celibacy, and the Roman separation of civil and ecclesiastical Courts, laymen being henceforth excluded from the latter. Now, too, if not earlier, tithes, originally a voluntary offering to the Church, were made payable by all Englishmen whether they would or no. But William would go no farther. He insisted on the royal sanction to all Church decisions and papal bulls before they were published in England, and forbade ecclesiastical appeals to Rome. He wrote to the famous Hildebrand refusing to do homage (*fidelitatem facere*) for the land which the preceding pope had made over to his sword; he made the bishops hold under himself by tenure of "knight-service;" and like his successors down to Victoria he nominated them to their Sees. ("People of holy Church" generally, indeed, were nominated by "the lords, founders and donors," to their benefices.) This local subjection of the Church to a feudal monarch, at the very period when its highest greatness was commencing, inevitably led to a conflict, and in particular to a branch of the great Patronage or Investiture controversy.[1] Rome on the whole was successful, and the English Church, guided by some men of European celebrity, admitted her supremacy. But a hundred years after the Conquest, Henry II., a powerful and passionate monarch, the organizer of the whole

[1] See p. 73. "My master," said the English ambassador on behalf of Henry I., "would rather lose his crown than the right of investiture of the bishops." "And I," said Pope Paschal, prompted by the great English Archbishop Anselm, "would rather lose my head than let him retain it."

administration of justice in England, was determined that in that country—now only part of a sovereignty extending from the North Sea to the Pyrenees—the crown should be free. When on one occasion it was argued to him that a priest could not be deposed by the royal power, "No;" he answered, "you cannot be deposed; but you may be shoved out like this," and putting his heavy hand on his counsellor's shoulder, he shot him out of the presence. In A.D. 1164 he called together the Estates of the Realm at Clarendon, and re-enacted into "constitutions" the laws or "customs"[1] as to the power of the king and his courts over the clergy in criminal matters, and over the Church in all secular and some spiritual matters. His Chancellor, Thomas à Becket, the first native Englishman who had been appointed to the primacy of Canterbury since the Conquest, resisted him in vain while living. But when slain before the altar by the king's four knights (A.D. 1170), he was promptly canonized by Pope Alexander III., and Henry's penance before the martyr's tomb, like that of his namesake at Canossa, was accompanied by large concessions. The investiture question in England was settled by a compromise extremely like that which we have seen made in the case of the empire by the Concordat of Worms. The English king kept the revenue of vacant Sees; but gave up the nomination of the new bishop to the chapter (to be exercised, however, with the royal consent and advice). The spiritual peer thus elected was to do homage to the king for his temporalities *before* his consecration by the Church; and practically the crown retained the appointment. Appeals to Rome were now conceded, though not encouraged, and it was an appeal (as to a contested election to Canterbury) which early in the next century brought a weak English king into memorable collision with a great and

[1] "Like his kingly sires
The Normans, striving still to break or bind
The spiritual giant with our island laws
And customs."

Tennyson's *Becket*, Act iv. Sc. ii.

strong pope.[1] John was first excommunicated and then deposed by Innocent III., whose decree invited the French king and his successors "to possess for ever the realm of England." John in terror not only yielded the points in dispute, but offered that homage for his realm to Innocent which the Conqueror had refused to Hildebrand. In presence of the legate he promised allegiance as vassal (*feodatarius*) on the part of himself and all future kings of England to the present and succeeding popes. But the disgraceful bargain (though concluded and carried into effect by England paying tribute to the pope as its feudal sovereign for more than a hundred years) was concluded without the consent of the barons. And this among other outrages led to the king being compelled by them (including even Churchmen, like Langton the primate, a personal friend and nominee of Innocent) to sign (A.D. 1215) the Magna Charta. This deed, "still the key-stone of English liberty, so that all that has since been obtained is little more than confirmation or commentary" (Hallam), commences with a provision for the freedom of what now appears as the "Ecclesia Anglicana," which may be translated the Church of England rather than the Church in England.[2] The freedom of election of bishops and abbots by their chapters was specially provided for, against the pope no doubt as well as against the king; and the whole transaction was based upon an idea of liberty which deeply offended Innocent. His bull at once declared the charter to be not only "a disgraceful and shameful compromise," but for ever null and void. Yet England stood firm, and soon began to make advances. In Henry the Third's

[1] Shakespeare, writing in the later days of Elizabeth, puts into the mouth of King John a declaration:

> "That no Italian priest
> Shall tithe or toll in our dominions;"

adding, less historically:

> "But as we under Heaven are supreme head,
> So, under Him, that great supremacy,
> Where we do reign, we will alone uphold."—*John*, iii. 1.

[2] "Quod ecclesia Anglicana libera sit, et habeat omnia jura sua integra et libertates suas illæsas."

time common lawyers began to sit in the king's courts instead of ecclesiastics; and these asserted their right of judging in all temporal matters, and of restraining the actings of the Church within the bounds of law by issuing prohibitions. Contracts and advowsons were among the subjects already made subject to the courts of the king, and while questions of legitimacy and marriage were still defended by the Church as ecclesiastical, it found that even here it could make no advance. In 1266 the bishops sought to introduce into England the rule (which Scotland and the rest of Europe have taken from the Canon law) of legitimation by subsequent marriage of the parents. The Parliament of Merton replied, in words of surly wisdom, "We will have no change on the laws of England"—("Nolumus leges Angliæ mutari"). And now even Edward I., himself a crusading prince, prohibited by his statutes of Mortmain the transfer of land to Churchmen or Church bodies; and his statute, *Circumspecte agatis*, confirmed the former limitations. As we have already seen, he insisted on his right to tax the clergy, and he also refused to allow them to send their funds to Rome, although he allowed the spirituality their place as an estate of the realm in the now constituted English Parliament. And the same independence was shown in international affairs. It had perhaps been natural that when Adrian, hitherto the only English-born pope, made a gift of Ireland to Henry II. (on the ground that all Christian islands belong to Peter and the Church of Rome), the king quietly accepted the boon. But when Boniface VIII. made the same claim with regard to Scotland, and, on the ground that that remote realm belonged in full right to the Church of Rome, demanded that Edward I. should submit his claims to it to the judgment of the pope, the result was different. The English Parliament replied in this year (A.D. 1301) in characteristic words: "The kings of England have never made answer for their rights as to temporalities to any judge, ecclesiastical or secular, and in such a cause they can never abide your judgment."

Still more important in its results was the independence now

claimed by the kingdom of France. That monarchy had been consolidating itself amid the feudal turbulence, and even the most pious of its later kings were disposed to restrain the excesses of Rome. Thirty years before Boniface's time, Saint Louis, when departing on his crusade, issued the famous Pragmatic Sanction of A.D. 1269, an edict which laid the earliest foundation for the "liberties of the Gallican Church." In particular, it provided that elections in the French Church should be free from papal control, and that no money should be levied in France by the pope except with consent of its Church and king. A generation had now passed away, and we have already seen the first result of the conflict between Philip Le Bel and Boniface. The excommunicated king, backed by the united Churchmen, barons, and burgesses of his realm, insulted and imprisoned the most arrogant of all successors of St. Peter. Nor did his success end with the death of Boniface. That pope's short-lived successor admitted Philip again to communion; and on Benedict's demise, a French prelate, elected under the name of Clement V., went farther still. The dead Boniface was actually put upon his trial at the instance of France before his living successor,[1] and the Bull *Unam Sanctam* was, not indeed repealed, but disavowed in its applications to the "king, kingdom and inhabitants" of that country. But Clement V. took, in A.D. 1305, a more important step. It was he who removed the papal court to the French town of Avignon, where for seventy years it remained in what Italians like Petrarch counted a "Babylonish captivity." During

[1] Mr. Browning, in *The Ring and The Book*, describes a similar horror from still earlier days,

> "When Stephen, pope and seventh of the name,
> Cried out, in synod as he sat in state,
> While choler quivered on his brow and beard,
> 'Come into Court, Formosus, thou lost wretch,
> That claimedst to be late the pope as I!'
> And at the word the great door of the church
> Flew wide, and in they brought Formosus self,
> The body of him, dead—" x. 32–39.

The English poet, like Dante, is no friend of the temporal power; and it is

this long period the popes and leading cardinals were generally French by birth, and always under French influence. Accordingly no further conflict arose between the papacy and France, and seven popes in succession ruled in splendid security far from the seat of Peter. Their wealth increased, for the rights asserted during recent centuries to interfere (at first occasionally and afterwards on system) in the election of ecclesiastics throughout Europe, became a source of enormous gain. At every election a portion of the vacant benefice was openly claimed by the head of the Church, while secret simony fed with bribes a power whose worldliness had now become absolute licence.

The claims of the papacy to spiritual supremacy against the empire remained as high as ever, while it dwelt in what an English Parliament described as "the sinful city of Avignon." But this contrast between high claims and low aims now began to rouse throughout Europe a spirit of inquiry and protest. And a fresh conflict brought this to a head. In **A.D. 1314** the last act of Clement V. was to issue a bull solemnly declaring that the oath of the emperor to the pope was really an oath of fealty. He had already declared that to the pope, as superior, the "imperium" returned with every vacancy in the empire. John XXII. soon after had an opportunity of applying this doctrine at a contested imperial election. He (1317) declared the supreme dignity to be in abeyance, and appointed the king of Naples as his own vicar to govern Italy in the meantime. Lewis of Bavaria, however, not only maintained his own election by force of arms, but in a

therefore worth pointing out that this ghastly reminiscence occurs in a poem which contains what is probably the noblest description of a just judge to be found in all literature. The soliloquy of an aged pope, condemning a man to death for a civil crime, begins with these words :

> " In God's name ! once more on this earth of God's
> While twilight lasts and time wherein to work,
> I take His staff with my uncertain hand,
> And stay my six and fourscore years, my due
> Labour and sorrow, on His judgment-seat,
> And forthwith think, speak, act, in place of Him."
>
> —*Ring and Book*, x. 162–167.

solemn protest at Nuremberg (A.D. 1323) asserted that the imperial right flowed not from the pope but from the electoral princes, and appealed from John's impending excommunication to the Holy See itself *and to a General Council.*

Once more the controversy was raised between the papacy and the empire, and it was prolonged during the thirty years of the Emperor Lewis. But on this occasion the war raged not on the battle-field and in the region of diplomacy only. For the first time on a great scale, it became a question of theory, and was fought out in literature. The preparation for such a speculative conflict was great, though inadequate. During the latter part of the Middle Ages the human mind, confined by ignorance on the one hand and despotism on the other within purely imaginary bounds, developed within those bounds an extraordinary activity. The centres of this activity became the Universities, which by this time had sprung up in every part of Europe. Fostered by the Church, and patronized by the empire and the kingdoms under it, each of these institutions still enjoyed a certain independence. But all formed a common republic of letters, for then students and graduates passed freely from one to the other, wherever a famous teacher appeared; and the light, which at one time burned more brightly in Paris, at another in Bologna, at another in Oxford, and at another in Prague, was at no time altogether extinguished. In these universities or great "schools" flourished what has come to be known as the scholastic philosophy, in which a prodigious energy of thought (shut off from the yet untrodden fields to be gained to modern science by observation and induction) was concentrated upon the ideas already contained within the doctrines of the Church. Within those containing limits a vast freedom of speculation was generally permitted, and, by the Nominalist section of theorists especially, was used. Scholasticism as a whole was, of course, an influence on the side of the Church; its philosophy was the "handmaid of theology." Yet it contained elements which wrought power-

fully in the opposite direction; and one of the earliest of its sources was the enthusiastic study in the twelfth century of the great legal compilations made in the sixth by the Emperor Justinian. The Roman or civil law was at first received hospitably by the clergy, and largely used in building up the ecclesiastical or canon law. But the civilians were the natural allies of the emperor, as the canonists were of the pope. And as some defenders of the pope were now found to go farther in his favour than the canonists, so some partisans of the emperor in this last conflict took stronger ground in theory than mere civilians could do. On both sides men were now found willing to depart from that doctrine of equal or co-ordinate jurisdiction which had hitherto been the accepted theory of Christianity.

Now, as at all times, the strongest partisans of the supremacy both of the papacy and of the Church were found among the monks or "regulars" (churchmen who lived under a "rule"). In A.D. 1328 the monk **Augustinus Triumphus**, in his book *Summa de Potestate Ecclesiastica*, "Of Church Power," maintained, with regard to the pope's position in the Church, that he is universal bishop; that he can bind and loose in every part of the Church; that while other bishops have a place, it is under his authority, and he can, when occasion calls for it, pass them by; that from the sentence of the pope there is no appeal, not even to God; and that the honour due to saints and angels, and in a certain sense the honour due to God, is thus rightly given to the Vicar of Christ on earth. Five centuries were yet to run before the proclamation by the pope of his official infallibility. But most of the other powers to be attributed to him by the Vatican Council in the nineteenth century are already conceded by these partisans in the fourteenth; and Triumphus goes on to use those attributions in the conflict with the emperor. He argued that the only power held immediately of God is that of the pope; that the power of sovereigns is a sub-delegated power; that the pope, being the Vicar of Christ, is, of course, to be obeyed rather than the emperor; and that he can, in virtue of the same powers, choose an emperor or a dynasty and depose them, and can choose and depose kings of any realm in Christendom. In A.D. 1330 Alvarus Pelagius followed with his book *De Planctu Ecclesiæ*, "Of the Church's Complaint," and from the same premises drew like conclusions. He held "that the pope is the sole authority of Christ upon earth; that from him general councils derive their power; that he is not bound even by his

own laws, for he may dispense with them as and when he pleases; and that he has a universal jurisdiction in spiritual and in temporal things."

On the imperial side, on the other hand, arose thinkers who, for the first time, were prepared not only to refuse the powers claimed for the Bishop of Rome in later centuries over the universal Church, but, also in defence of the civil power, to limit or deny that original independence which the Church itself now so grievously misused. The most remarkable book of this nature was the *Defensor Pacis*, the composition of Marsilius of Padua, now the emperor's physician, but formerly Rector of the great University of Paris, aided by John of Jandun, one of the imperial secretaries. In this work, published about A.D. 1325, it was argued in detail on the internal Church question—that all presbyters or bishops were equal in the primitive Church, greater authority being gradually given to one of them in each district only as a matter of convenience; that as Peter had no authority over the other apostles, so no one succeeding bishop had authority over others ruling elsewhere; and that the habit which other bishops and Churches had got into, of consulting the pastor of the central church of the world, had gradually come to be considered a duty on their part, and had now led to an unfounded claim of authority by Rome over the Churches and bishops, and even the princes of Christendom. The universal powers of the Church, thus denied to any local bishop, were by this book assigned to a general council; and Scripture, interpreted when need is by the definitions of such a council, is held by it to be the sole guide to blessedness. These principles, anticipating many results of historical criticism in modern times, had already been prepared for by the investigations of the universities, and were now spread through Europe by the incessant labours of William of Occam and others. But the Reformation was still two centuries distant, and they took little hold of the hearts of men.

Accordingly the imperialist advocate, distrustful of the will of the universal Church to free itself from the papacy, provides for the first time a theory by which that Church itself shall be subject to the universal State. To do this he had, no doubt, to go back to pre-Christian speculation, yet not so far as to pass the great philosopher whom the mediæval Church itself had accepted as the first of those who know. Aristotle, following the tradition of Pagan antiquity, had defined the State as the supreme and perfect society,[1] and Marsilius, adopting the definition, points out

[1] Even Thomas Aquinas, who was about this time canonized, and who had attained the highest celebrity as "Angelic Doctor" before his death in A.D. 1274, held in his *Summa* (*Prima Secundæ*, 91. 3) that the State being, as Aristotle declared, the perfect community, the good of the State must take precedence of that of the individual as an aim.

that the priesthood and the Church must be parts embraced within and under that greater whole. But the function of legislation belongs (as Aristotle and Aquinas had already declared) to the totality or (in the event of their disagreeing) to the majority of all citizens ; and the great act of this legislative whole is to appoint one sovereign or executive power. And this sovereign, representing the whole State, has alone the power of co-action and of punishment. His authority, therefore, extends over all men, clerical and lay ; and his power over Church temporalities is such that after making provision for the altar and the poor, he may use the rest for purposes of public utility. But it follows also that Church elections and Church sentences can only be carried into effect through him. Without him neither bishop nor pope can effectually excommunicate ; with him the Church may excommunicate even the pope. To him, therefore, appeals lie against the enforcement of Church sentences ; by him Church officials can be ordered to perform their duties ; and by him external arrangements of the Church—as, for example, the number of the clergy—can be regulated, though only according to the divine law. The novel powers as to Church matters here ascribed to the magistrate are occasionally disguised by his being called the "fidelis," or Christian magistrate—an ambiguity often usefully employed in earlier and later times. (What few would permit in the Church to Trajan or Nero, many would concede to Constantine or St. Louis.) But fundamentally this theory subordinates, and therefore subjects, the Church as such to the State as such.

Like most imperialist theories, that of the *Defensor Pacis* lies under a twofold error, even on the political side. It assumes that the individual citizen transfers all his rights to the State, and that the State again lodges all its rights in the hands of the *princeps*, or executive. In both respects it reflects the mistake of the apologists of the other or papal imperialism, which subjects the individual Christian absolutely to the Church, and then subjects the Church absolutely to one episcopal head. But it was built up with great boldness and power, and the fact that the highest civil authority was by it appealed to as "broad-based upon the people's will," made it a step in history. Yet Marsilius was only one of a group of men, some of them more celebrated than himself, who maintained the same principles under the shelter of the emperor at Munich. Of these the greatest was

William of Occam, the "Invincible Doctor," whose bargain with Lewis, "Defend me with the sword, and I will defend you with the pen," was carried out on his part with extraordinary power. For two centuries before the Reformation the principles thus promulgated had immense influence, especially in the universities of Europe; and in modern times they have been widely accepted as the true theory of Church and State. They have been often so accepted even under the disadvantage that the State which is to include the Church has been a mere nation—a fragment of Christendom, even when it has professed Christianity at all. But in order to make the supremacy of a State over the Christian Church tolerable, it ought at least to be the universal State. And it is almost with regret that we look back and see the theory originally brought forward just too late—at a time when the Defender of the Peace of the World, retaining his Christian profession, was beginning to lose his world-wide sway.

Even at the time, the theoretical usurpation by the Christian emperor of powers over the Church, which no one would ascribe to his heathen predecessors, caused a certain revulsion of feeling in Germany. Like the doctrine held at the same time by the Franciscans, that ecclesiastics, unlike other men, have no right to possess private property, these views were too obviously taken up as defence or retaliation against the equally baseless despotism of Rome. Lewis, too, was weakened by the gradual rise and consolidation of the opposing power of France. The result was that when he died in 1347, the middle of the century saw the last of the three great conflicts of the Church with the empire result in another victory to Rome.

Yet it was a victory in a losing campaign. Public opinion and the new learning were now a force in Europe, and these did not now go with the papacy, even when it seemed to conquer. We may take two illustrations. In the very year of the death of the excommunicated emperor, the temporal power in the centre of the Latin Church was swept away—though for a moment only—by the Roman Republic, under Rienzi. Looking outward to the

circumference, we find in England Edward the Third, heartily supported by his Parliament, resisting the pretensions and exactions of Clement. In a "fruitful letter," he reminded the pope that the successor of Peter "should feed and not shear the sheep." But now the question at issue in England was settled by two well-known Acts of Parliament. By the statute of Provisors, in A.D. 1350, those who claimed benefices under papal provisions were subjected to penalties until they had vacated them in favour of the king's nominee. And by the statute of Premunire, in A.D. 1353, those who transferred or appealed any cause under the English king's jurisdiction to a foreign tribunal —that of Rome being specially intended—were made subject to forfeiture and outlawry. Before Edward III.'s forty years closed, another question was raised. His predecessors had paid the yearly tribute of a thousand marks, promised by King John, as vassal of Rome for England and Ireland; but when Urban in 1365 demanded thirty years' arrears, the king laid the matter before Parliament. It answered "that neither King John nor any other could put his kingdom and people in subjection without their assent." Among those who defended this refusal was Wycliff, now the champion of a wide-spread revolt in England against Rome and the friars—who, here as everywhere, were Rome's soldiers. Protected by the House of Lancaster, Wycliff met the papal delegates at Bruges, sent out from Oxford the "poor priests," who came to be nicknamed Lollards, translated the Bible, and demanded a reformation of the Church. The Peasants' Rising, led by John Ball and Wat Tyler, in 1381, suggested a connection between religious and civil freedom, which alarmed the court of Richard II. It, accordingly, gave partial effect to a condemnation of Wycliff in the following year by a council at London. But his followers were on the whole unmolested till, upon the murder of this king in 1399, the usurper Bolingbroke allied himself with the clergy to secure a precarious throne. His Parliament in the following year passed a statute for burning heretics, which, in the reign of his son,

Henry V., crushed out the Lollards. Twenty years earlier, however, a central schism had split Europe, and given an immense impulse to Church reform in the first place, and, when that hope failed, to the remedial powers of nationalism.

The **Great Schism**, which lasted for fifty-five years after **A.D. 1378**, occurred in a very natural way. In that year the College of Cardinals, the large majority of whom were now Frenchmen, were obliged, according to custom, to meet in Rome to elect a pope; and, under pressure from the populace, elected an Italian, Urban VI. Very soon after, however, they returned to Anagni, annulled Urban's election on the pretence that it was extorted by violence, and chose instead Clement VII. (In addition to the existence of popular pressure for an Italian, if not a Roman, Urban had been elected by a bare majority, according to a constitution of the recently deceased pope; and the pope's right to change the previous rule, by which a vote of two-thirds had been required, has always been questioned.) The immediate effect was to split Christendom nearly equally. Each nation was entitled to its private judgment on the question who was pope, and had, of course, no papal authority to guide it until it had settled where that authority lay. Northern Europe and Northern Italy thus went with Urban, who was acknowledged by Germany, England, Denmark, Sweden, Poland, and Prussia. Southern Europe and Naples went with Clement, whose adherents included France (with its ancient ally, Scotland), Savoy, Lorraine, Castile, Aragon, and Navarre. The episcopate was as divided as the family of nations, and each pope excommunicated the other and the other's cardinals. The external unity of the Church, the great object for which each successive age had sacrificed so much truth and freedom which its predecessor had possessed, was utterly lost. Christendom was paralysed; and private Christians, taught for centuries to lean on one visible head of the Church, were filled with confusion and dismay.

For half-a-century the difficulty remained, and the danger

grew. In Italy the adherents of each pope kept up a war with each other. Europe generally was oppressed by the exactions and the simony of two papal courts instead of one.[1] On every hearth and in every confessional men were haunted by a doubt on what they had been taught to treat as fundamental. The effect was to raise everywhere the same spirit of inquiry which we have seen produced for a time by the conflict between the Church and the empire. But now the inquiry was as to the ancient constitution and rights of the Church, and it was prosecuted especially by the universities, the great repositories of European learning and light. The result was everywhere the same. It was found that the Roman pontiff in early days had occupied no such position over the Church as each anti-pope now claimed to do. It followed that the road out of the present difficulty must be, not in choosing between them, but in falling back upon the Church itself. During recent centuries only adversaries of the popes at open war with them had appealed to a general council. But the schism led to a general acknowledgment of the Council's superiority.

The eyes of men now turned to such a council with immense expectation, and the sovereigns of Europe favoured the course urged upon them by theologians and scholars like Gerson, the famous Chancellor of the Paris University. The rival popes still resisted; but in 1409 their cardinals, abandoning them both, united to call the Council of Pisa. Little was done by it, however, and the great experiment was only really tried at the Council of Constance, which met in **A.D. 1414**. Called by

[1] England acknowledged Boniface IX., who made merchandise of the Church in this systematic manner. "It was useless for a poor man to make a request to the papal court. The next presentation of a benefice was sold two or three times over; then a new class of grant was constituted, marked 'Preference;' in time, yet another class was created, marked 'Pre-preference,' which gave the happy possessor a higher claim than his rivals, though even then, when the vacancy actually occurred, the pope would often sell it again, despite all previous grants of reservation."—Creighton's *Papacy*, i. 116.

the infamous pontiff, John XXIII., under pressure from the Emperor Sigismund, to whom he had fled for protection, it commenced with the highest expectations from all Christendom. Its first act was to provide that its votes were to be given not by counting heads, but by nations. Its second was a declaration that, as representing the Catholic Church (though, in truth, it rather represented the Church aristocracy), it "held its power from Christ immediately," and that all, even the pope, were bound to obey it in matters of reformation and of faith. Thereupon the existing popes—by this time there were three—were all removed or deposed. But, unfortunately, the Council before going on with the rest of its programme elected another, the Cardinal Colonna, who, as Martin V., paralysed their further proceedings. There were several reasons why this obstruction was possible. The pressing matter of papal schism was now settled. In matters of faith the bishops of this Council had no real desire for inquiry or reform, and they insisted on condemning innovators, such as Huss, whom they handed over to the flames as a heretic, notwithstanding Sigismund's safe-conduct. It was not strange that they in turn soon found themselves helpless in matters of administration, and that the pope, after granting a tithe of the Church revenue to the same Sigismund, and pronouncing their doctrine of the superiority of a council to the pope "false, rebellious, and damnable," dissolved the assembly. A similar history is recorded of the later Council of Basle, which was called in **A.D. 1431.** It commenced with strong decrees affirming its own rights, and that the pope as mere "ministerial head" of the Church was not its superior. The pope in vain protested that this changed the Church into an aristocracy, and might make it a democracy. He was forced to send legates ; and many reforms, all tending to limit papal interference with Church revenues and administration, were provided for by its decrees. But before these could be ratified, the quarrel between the sacerdotal chiefs of the Church and its monarch again broke out, and the people had by this time ceased to take

the side of the former so heartily as before. The universities, too, had resisted the pope, but did not desire the aggrandizement of the bishops. Accordingly, Eugenius IV. called a rival council at Ferrara, and a minority split off from that of Basle. The majority at Basle persisted, and elected another pope, whom Christendom, however, refused to recognise. The Basle Council lingered on a few years, and then died out. Papal bulls at once pronounced a condemnation on its doctrine of a council's superiority to or independence of the head of the Church; and subsequent councils themselves, like the Fifth Lateran in the following century, and that of the Vatican in our own, have fully accepted the monarchical view.

The result of this **Period of Councils** was twofold. The position of the popes was not really maintained: learning and inquiry into Church history had begun to destroy the prestige which had fascinated the ages of ignorance. The forged Decretals and the pretended Donation of Constantine were no longer, as in a previous age, believed by all. But councils also had lost the attraction which they had so long exercised on the minds of men. Something was wanting, none knew exactly what, perhaps to be unfolded from within the Church, perhaps to be revealed from without. But, in the meantime, the one Church found no adequate means of representing itself, and the one secular power had become a mere name of emperor. All this tended to strengthen the separate sovereign States or nationalities into which Christendom had broken, and to create and foster national Churches. Unfortunately, in that century this generally meant to strengthen the sovereign princes. For this was the age of the rise of absolute power all over Europe. And soon the popes, who now became rapidly more corrupt in character than they had ever been before, found it expedient to make compromises with one after another of the great States or sovereigns of Europe, sharing with them many of the privileges claimed by the councils for the Church itself. These compromises,

or "capitulations," which were characteristic of the century before the Reformation (called at different times Pax, Concordia, Tractatus, Capitula Concordata), are known now as **Concordats.**

The first National Concordat was with Germany. By what is called a "Pragmatic Sanction," in 1439, the empire had accepted for Germany the chief principles laid down by the Council of Basle; and by providing for free canonical election to German benefices, with a reform of the ecclesiastical judiciary and a limitation of the papal power of excommunication, it sought to secure the independence of the national Church. Two popes had already promised to confirm the Sanction. But, by the Concordat of Vienna in 1448, procured by the skill of the legate Æneas Sylvius, the new emperor, Frederick III., gave up to Nicolas V. the annates and most of the benefices, receiving for himself, in exchange, the patronage of six bishoprics and a hundred benefices, with the tithes of the monasteries. The popes having thus succeeded with the emperor, proceeded to make similar bargains with the other German princes, and the result of the concordat was, that in a few years Germany was filled with Italian ecclesiastics.

France, as might be expected from its previous championship of the rights of the Church against the Papacy, was able to maintain its own "Gallican Liberties" without a concordat for a much longer time. Their foundation for nearly a century was the Pragmatic Sanction of Bourges in 1438. On the foundation of the superiority of the Church and its ecumenical councils to the pope, it went on to provide that he should have no power of nomination or patronage in France, the high ecclesiastical offices being filled by canonical election, and other benefices by the local patrons. The exaction by Rome of annates, *i.e.* the first year's stipend from vacant benefices, was declared to be simony; restrictions were laid on appeals and interdicts, and the publication of papal bulls and briefs without royal sanction was forbidden. And to guard all these regulations, a right of correcting the abuse of ecclesiastical power—*appel comme d'abus*—was acknowledged in the Parliaments

or higher courts of law. The Sanction remained in force during the rest of the century ; but in 1516 Francis I. made the same sort of bargain with the Pope which the emperor had long ago done, and exchanged it for a concordat. The concordat of course ignored the principles of the Church councils of the previous age (which in this year, indeed, were reversed by the Council of the Lateran), and it settled the question of patronage, by giving the annates throughout France to the pope and the whole nominations to the king.

Spain was now rising to at least equal greatness, and the universality of the national movement in Europe appears from a power so strongly Catholic also adopting it, and that with great success. The corruption of the Church there, and the foreign interference of Rome, had been matter of deep complaint in Spain ; but by the concordat of 1482, Ferdinand and Isabella, enthroned over a united people, received from the pope the right of nomination to all the higher ecclesiastical offices, and a general control over the Church of Spain. Even papal bulls were not to be published until permission had been given by the Crown ; and at the great councils already mentioned Spain used its influence against the excess of papal authority. The result to the Church of Spain was a vigorous reform from within, in which the Crown, the universities, the Inquisition, and the priesthood all combined, so that it passed unbroken through that shock of the Reformation, which elsewhere in Europe displaced so much.

The "constitutional" episcopacy, which had for so many earlier centuries opposed the power of the popes, must not be confounded with the new nationalism, on which the concordats were based. The former may, in some cases, have led on to and merged in the latter ; but they were quite distinct in principle. The former was based upon an ecclesiastical division of Europe ; the latter upon a political. The former was deeply rooted in the theory of the Church for many centuries ; the latter was wholly foreign to it. But though abnormal and irregular, and appar-

ently adopted very much as a weapon against the otherwise intolerable despotism of the papacy, the new system of cutting up the Church universal into national Churches was found not only to have great advantages for the time, but to have foundations in justice. The nations were by this time really independent. They were separate peoples, divided by language and sympathies, and no longer mere geographical expressions. National literatures had begun to be formed, illustrated by genius like that of Dante (d. 1321) and Petrarch (d. 1374) in Italy, and Chaucer (d. 1400) in England. The kingly power which defined the nation was itself supreme, and yet was popular with the masses, whom it defended from feudal oppression without burdening them with legislative or other responsibility. The Church was, no doubt, divided into Churches because the empire was divided into States ; but the borrowed arrangement was a good one, and a time was soon to arrive when it would be necessary to defend it on grounds other than those of convenience.

In the meantime, however, the frustration of the expectation of a reform of the Church from within, began to tell on the minds of men. The hopes and energies of the race turned from the Church altogether, with a sort of unconscious despair—turned, with a new spring of unreasoning hope, in quite other directions. Many things helped this result. Ever since the time of the crusades (A.D. 1100 to 1300) there had been a certain literary intercourse between Europe and the East, and now the final capture of Constantinople by the Turks (A.D. 1453) caused an emigration into Italy of many learned Greeks and Orientals. The result was a renaissance of classic poetry, philosophy, and art, the passion for which carried away the learned world alike from the religious mysteries of the Church and the definitions and abstractions of the schools. But other worlds were now to be opened besides that of the pre-Christian past. By this time Europe had attained the use of both gunpowder and mariner's compass, and the discovery of America in 1492 by Columbus was followed by the successes of other daring voyagers. The old

barriers of the universe seemed suddenly thrown down, and the minds of men expanded with their horizon. Yet all this went to feed the rising strength of the great kingdoms and nationalities, each with its fresh literature in its own vernacular, and with its new career distinct from the hitherto common life of Europe. No part of it strengthened the Church, or opened a door for Church reform. Individuals who caught the flame of religious life were still obliged to hide it in privacy. Those who, like Savonarola in Florence (d. 1498), worked for a time alongside of the Renaissance in hopeful practical earnestness, soon found themselves isolated and crushed. Everywhere, indeed, the New Learning was in a state of unconscious opposition to the mediæval system. Some studied Plato, for Aristotle had been accepted as their master by the schools. Some, like the Humanists of Oxford (Colet, Grocyn, Linacre, More, and their guest Erasmus), cultivated the New Testament. And all attacked the lives of the clergy and the mediæval method of study through endless definition and distinction. But Humanism, even in such hands, had no plan or hope for the future ; and in the hands of most of its cultivators, it was in relation to religion a secular and corrosive force.

Nowhere was this more manifest than among the wealthy and corrupt princes of the Church. Many of them received the new learning eagerly and hospitably, but only in its ornamental aspect as culture. And when so received, it was found to be fatal to faith and morals. During this period, indeed,—the hundred years before the Reformation,—the moral condition of the central Church had sunk very low.[1] More and more the great powers of Europe, while protecting themselves against the rights claimed by earlier pontiffs over their subjects, came to consider the pope merely as one among the other powers to be dealt with by skilful diplomacy. More and more, too, the new popes came to acquiesce in this view, and to be satisfied with those spoils of the

[1] A poem of our day gives, in Mr. Browning's description of how "The Bishop orders his tomb in St. Praxed's Church," a vivid idea of what things occasionally came to.

world which year by year were piled around the legendary seat of the fisherman. It was not without important results that this came to be the state of matters within a hundred years after the great but abortive Council of Constance—that one of the Borgias sat on the papal throne when Savonarola fell to be judged, and one of the half-Humanist half-Pagan Medici when Martin Luther spoke to the conscience of the German people.

## CHAPTER VI.

### THE REFORMATION : LUTHER AND GERMANY.

THE Reformation in its origin was an impulse in the hearts and consciences of individual men. It had no relation in the first instance to public associations such as the Church or the State. On the contrary, it originated in a new and widespread conviction, that in Christianity the private man is entitled and bound to go direct to God Himself, and that if he does so in faith he receives pardon and acceptance immediately from Him. But of course this new view of Christianity led to a new view of the Church. Men came again to regard it as merely the "congregation of believing men," and no longer as what it had for centuries claimed to be, the hierarchical dispenser of grace and mediator of pardon. With this authoritative claim of a hierarchical church, Protestantism came into collision at once, and almost immediately after with those civil powers—the foremost being the empire—which had pledged themselves to maintain it by intolerance. What relation the new ideas, in so far as they might be victorious in the struggle, would themselves have to the problem of toleration, was the great question of the political future.

**Martin Luther**, the son of a German peasant, was born in 1483. In his twenty-second year he left the study of law and entered the Augustinian convent at Erfurt. His legal studies had prepared him to sympathize with the German Church and the German Empire against the aggressions of Rome; but now for some

years these external questions were forgotten, in a profound and passionate desire to solve, chiefly in the study of the Holy Scriptures, the question how the individual man may be just with God. He visited Rome in 1511, and on his return to the University of Wittenberg, in which he had for some years been professor of philosophy, he became doctor of biblical theology, and his preaching of justification of a sinner by faith became a most powerful influence through the whole of Saxony. The inevitable collision between this and the Church system came, when Tetzel, a Dominican monk, was authorized by Pope Leo X. to go through Germany selling pardons or indulgences in the form of stamped tickets, at the rate of a few ducats for the graver sins. All Germany sympathized in the protest which Luther, on 31st October 1517, nailed on the church door at Wittenberg. But keener observers saw that the reasons which he gave struck deeper than against any mere abuse of the Church's admitted powers. Cardinal Cajetan summoned the honest monk before him, but soon gave him up as "a beast with deep-set eyes and strange speculations in his head." Cardinal Miltitz more skilfully made a compromise, by which there was to be a cessation of controversy, and Luther in the meantime should acknowledge, in a general way, the authority of the Church. The truce was broken by Dr. Eck, who challenged a public disputation on indulgences at Leipsic, and Luther was now enabled, by the learning of Melanchthon, to take a wider and firmer position in support of his theses. Eck insisted on the authority of Rome in favour of indulgences; Luther denied that the Church of Rome had authority over the other Churches of Christendom. Eck rejoined that these were the opinions of Huss, condemned at Constance. Luther replied that Huss was sometimes right, and the Council of Constance, like other Councils, was sometimes wrong. Eck, in horror, appealed to Rome; Luther, in two famous pamphlets, to the German people. In the first, addressed to the nobility of the nation, he urged in detail the liberation of the Church in Germany from the exactions and privileges of the

Roman Court. But he based it upon a denial of the traditional distinction between the spiritual and the temporal estate; for all Christians are spiritual, and are priests to God, and popes and bishops are, like other Christians, subject to the secular power ordained of God. The second, *On the Babylonish Captivity of the Church*, went farther still. In it he maintains that the Catholic Church and its sacraments were originally free, but that they had been enslaved by passing under the "tyranny" of the Roman Curia. "By what right, I demand, has the pope given us laws? Who gave him the power to bring into bondage the freedom we received in baptism? . . . I assert that neither pope, nor bishop, nor any human being, has the right to bind a single syllable upon any Christian man, except with his own consent; and whatever is done otherwise is tyrannically done!"

These appeals, scattered in A.D. 1520 by the printing press among ten thousand enthusiastic readers in Latin and German, anticipated by a short time the Papal Bull of excommunication. For Rome had recognised now that the time for argument was past, and the question was whether the secular power also could be roused to crush the innovator. The position on the side of the State was remarkable and critical. For several centuries the influence of the Holy Roman Empire had been going down, not only with great States, which, like England, France, and Spain, held themselves to be independent, but even with the German princes, who, as Electors, conferred the Imperial Crown. Still, when a vacancy occurred, as had happened now on the death of Maximilian in 1519, the greatest monarchs continued to strive for the chief honour which the world could bestow. On this occasion, Henry VIII. of England, and his brilliant rival, Francis I. of France, were both candidates; but so also was Charles, the young heir of a mighty twofold realm, which included Spain and Portugal on the one side, and on the other Austria, Burgundy, and the Netherlands. The Electors, however, were jealous of great foreign powers; and Erasmus tells us how they all offered the Imperial Crown, in the first instance,

to one of their own number, Frederic of Saxony, and how, with characteristic magnanimity, he refused it, and recommended that, in the interests of Germany, so great a burden should be laid only on the most powerful shoulders. (Frederic, as it happened, was the prince and protector of Luther.) So Charles V., who had already the mightiest dominion in Europe and the Indies which the world had for ages seen, became also the nominal lord of the world and the real Emperor of Germany, with all those titles of Defender, Protector, and Advocate of the Christian Church, with which previous ages had armed his high office. And he succeeded to it just as the new breach with Rome was becoming irreconcilable. Luther's address to the German nobility was dedicated, in the first place, "To His Imperial Majesty" newly elected; and before the year 1520 closed, the emperor, not yet arrived in Germany, had laid before him also the Papal Bull. By it the doctrines of Luther were condemned, and he and his adherents were summoned to recant. In many parts of Europe, in particular in the emperor's hereditary territory of the Netherlands, the terrible instrument was at once published. But in Germany the princes and people hesitated as to what they were to do with it. One man had no hesitation. Luther had already appealed against it to a General Council of the Church; and now, on 10th December 1520, at the head of a procession of doctors and students of the University of Wittenberg, he solemnly burned not only the Bull, but those books of Canon Law and of the Roman Curia against whose tyranny and usurpation he had already protested, and which he now described as even Antichristian. The eyes of the world were fixed on the daring defiance; and to deal with this and other matters of pressing concern, the Diet, or Great Council of the Empire, was appointed to meet at Worms in the very next month of January 1521. Charles himself took his seat in it as German Emperor. A few weeks had passed, when he one day suddenly called the princes together. It was to read them a letter from Rome, presented by the Papal Nuncio, which

announced a fresh Papal Bull, actually excommunicating Luther and his friends, and demanded that an Edict and Ban of the Empire should be at once issued to give secular effect to the condemnation. In response, Duke George of Saxony, notoriously unfriendly to Luther, reminded the Diet that, whatever might be the Wittenberg doctor's faults, Germany had innumerable grievances against Italy. Luther's friends, too, urged that the Diet should condemn no man unheard, even when sentenced by Rome. After a short struggle, the emperor yielded so far as to grant Luther a safe-conduct, and summoned him to appear at Worms.

On the 2nd April, in custody of the imperial herald, Luther set off from Wittenberg for Worms. Around him, day by day, as he travelled, there was an outburst of lamentation and sympathy, for his friends and himself believed he was going on to death. But the personal heroism of his appearance at the Diet must not make us forget that Luther viewed it also as a great constitutional crisis. Like all the Reformers, but more strongly perhaps than any of them, Luther protested that he was not founding a new Church. He remained of the Church ancient and catholic; it was Rome that had brought in additions, incrustations, usurpations, and sought to bind them on the Church. To evidence this, the Saxon doctor was not content with appealing to Scripture and the records of the Apostles. He took his stand also upon the ancient creeds,—the Apostles' Creed, the Nicene Creed, the Athanasian Creed,—and uttered and published them continually, as a proof that "I adhere to the true Church of Christ," which others sought to enslave to novelties. In the simplicity of his first fervour, he fancied that even the Bishop of Rome might be induced to acknowledge this, and so might separate himself from the tyrannical power of the "Curia," which later centuries had built around his ancient see. That hope had speedily become vain; and he who retained in bondage the once free flock of Christ, was soon denounced by Luther as, on that account alone, Antichrist. But there was another power besides that of the bishops, which was bound to protect the rights of Christendom.

The Emperor of Germany sat in the seat of Charlemagne, of Theodosius, and of Constantine ; he was all along the secular head of the Christian commonwealth ; and it had been and was his duty to defend it in the freedom which it possessed when empire and Church originally came together. The constitutional measure of that freedom, the legal charter of the Church, Luther found in that fundamental law of Theodosius, which not only established Catholicism, but defined it,—defined it by a creed (see pp. 35, 47), which all admitted that Luther and his friends openly held. With convictions and claims like these, but with no corresponding hopes, Luther at last stood before the Hapsburg who now held in his hand the orb of empire. Two hundred princes and nobles shone in the circle around the monarch. Luther, asked if he would retract the contents of his books, pointed out that he could not answer definitely so general a question. "The emperor wants a plain answer," said Dr. Eck. "Do you retract what you have said against the Church and the Council?" "If you want a plain answer," said Luther, "you shall have one without horns or teeth. I cannot trust the pope alone, or Councils alone, for it is clear that they have repeatedly gone wrong and contradicted themselves. Until, therefore, I am otherwise convinced by Scripture or plain reason, I am bound by God's word and conscience, and I cannot and will not retract what I have said. Here I stand!"

The appeal to the ruler of the empire against the ruler of the Church was in vain. Next day, without even consulting the Diet, Charles announced that, to stay this heretical plague, he, descended from so many protectors of the Church, would peril "kingdom, treasures, and friends, body and blood, and life and soul." It was the natural temper of the young Spanish-Austrian potentate ; but in addition, as Ranke reminds us, for the last hundred years the pope and emperor, once mighty rivals, had in their comparative weakness made common cause against the European powers generally. On the very day when the imperial edict against Luther bears to be signed, the 8th of May 1521, a

private treaty was concluded between Charles and Leo, in which the latter agreed to help the emperor to drive his rival Francis out of Milan and Genoa. Not only Annas and Caiaphas, but Herod and Pilate, had agreed, was the remark of Frederic of Saxony, who now retired in despair from Worms. In his absence the Diet unanimously gave its approval to the dreaded edict. It commenced as follows :—

"The Almighty having confided to us, Charles the Fifth, more kingdoms and greater authority than He has ever given to any of our predecessors, we purpose employing every means in our power to prevent our holy empire from being polluted by any heresy." It calls upon all men, therefore, to give Martin Luther neither food, drink, nor shelter ; to apprehend him and his adherents, to burn his books, and to give himself up to the imperial power ; "and if any person shall dare to act against this decree of our imperial majesty, we place him under the ban of the empire."

Such was the doom already hovering over Luther, and to descend upon him when, on the close of his journey from Worms to Wittenberg, his safe-conduct should expire. His safe-conduct expired, but he did not arrive at Wittenberg. In the solitude of the Thuringian forest, a masked and armed party dragged the monk from among his terrified friends, and when, a few days later, the imperial edict was published in Germany, no man knew whether he whom it assailed was among the living or the dead. But the empire had chosen its part.

For the empire itself it was a fatal choice. Quixotic as the expectation might be, nothing perhaps could have saved that oldest of all political institutions, except some attitude of religious neutrality, and of protection of individual Germans in their varying convictions, such as the Reformer had suggested or was at least willing to accept. The later traditions of the Middle Age for centuries made such a bold wisdom almost impossible. Frederick the Wise, Luther's master, might perhaps have

attempted it. Charles never would. And so the highest of secular powers was now confronted by a new and strange thing, —the widespread resolve of men to be true to their religious convictions against all assertion of authority, and to obey God and His accepted Word and will rather than man. This obstacle, added to those already existing in the divided constitution of Germany and of Europe, wrecked the long lifework of Charles V. His edict against Luther in 1521 was not even published in some parts of Germany, and where published, it was not obeyed. The Diet which met in his absence at Nürnberg in 1522 and 1524 formally suspended it, and left over the whole question of religion to the Diet of Speier in A.D. 1526. Before that sat, the insurrection of the nobles and of the peasants had greatly weakened the Protestant cause, and the emperor, having captured his great rival Francis at Pavia, had taken him bound to help him to put down the German heresy. But the intrigues of the Medicean Pope Clement again sowed jealousies between the two monarchs, and prevented Charles going to Speier. The Diet met, and issued a memorable decree. It was to the effect that, as regards the matters dealt with by the Edict of Worms, every State should live and rule and hold for truth, as it should *answer for itself* before God and the emperor. It was no doubt a compromise, and it probably introduced into the Protestant world that cruel supremacy of the State or nation over the conscience of the individual, from which we are only now escaping. But when we look at the relation of the particular State or nation to Europe as a whole, the Edict of Speier was a real edict of toleration, and it broke the ban of the empire. Charles, bitterly disappointed with the result in Germany, found also that the pope had by this time gone the length of a secret agreement against him with France. He turned first on his faithless ally, poured an army of Germans and Spaniards into Italy, and stormed Rome in an assault, in which his captain the Duke of Bourbon was slain, but which was followed by a sack so remorseless and prolonged, that it has been said, not untruly, that to the

Eternal City "Alaric was a gentle foeman matched with Bourbon." Once more supreme in Europe, he sent his commissioner to the second Diet of Speier in 1529, to insist on the original Edict of Worms. The majority resolved, that it should continue to be enforced where it had been so already, that mass should be nowhere forbidden, and that in the meantime there should be no new changes, *i.e.* no evangelical proselytism. Compromise though this still was, as compared with the past it was reaction; and it would have so far crushed individual freedom of conscience, even in reforming States, that the evangelical members of the Diet at once signed a **Protest**, from which has come the historical name of Protestant. Its preamble recalled that "in matters which relate to the glory of God and the salvation of the soul," each man must answer to God, and must not submit to human authority or to majorities of votes. But what it formally demanded was a return to the former Speier vote. Five evangelical States and many imperial cities gave their adhesion to this. In **A.D. 1530** the emperor himself presided in person at the Diet of Augsburg, where the Protestants presented to him the **Augsburg Confession**,—that which all Lutherans acknowledge to this day, and the first of the great family of creeds which in this generation sprang from the soil of Europe. But Charles now formed a league with Catholics outside Germany to help him to crush the Protestants. They on their part refused subsidies, and entered into the "League of Schmalkald." As the result, the empire was for many years reduced to a deadlock. In 1532, the peace of Nürnberg allowed the adherents of each confession to hold their own; and in 1541, the Diet went further, and proclaimed that any one was to be free to adopt the Protestant religion. The emperor, now no longer young, could not bear all this with equanimity. The signal for his final effort was given by the death of Luther in 1546. Great armaments were poured upon the Protestant States; their brilliant young general, Maurice of Saxony, was persuaded into treachery; the Protestant League was overthrown at Mühlberg, and its two leaders

were laid in a dungeon. For some years it seemed that his work was done. But neither the religious nor the national life of Germany could remain at peace under Spanish soldiery. Before the year 1552 a new North German Confederation had been formed; Maurice promised them his sword against Charles, and the formidable alliance of France was secured. The emperor lay at Innspruck, suspecting nothing, and proposing to go on to the Council sitting at Trent. Suddenly the army of the Protestant League hurried south to the Bavarian Alps; Maurice, in advance, seized Donauwerth, seized Ehrenberg, and, hurling himself through the Tyrol passes, almost seized, as he said, "the old fox" in his den. But Charles fled and escaped; the Council of Trent broke up in consternation; and Europe saw that in the long struggle the empire had at last failed. In the same year were settled the preliminaries of that religious peace which, at the **Diet of Augsburg in A.D. 1555**, was formally enacted as "permanent, absolute, unconditional, and unending," and which, in point of fact, has been the settlement of the question in Germany down to our day. It was founded on the principle of compromise already acted on,—that the supreme civil power in each State should choose whether the religion of that State was to be Roman or Lutheran. Scarcely had this long-resisted consummation been reached, when Charles resigned the too oppressive load of his kingdoms and empire, and in the cloistered paradise of Yuste spent the two last years of his wonderful career. An unfounded tradition of later centuries ascribed to himself the reflection which naturally occurred to others, when the imperial virtuoso failed to make two of the convent clocks keep time. "And this was the man who in earlier days had wasted much blood and treasure to compel all the minds of Europe to agree in their thoughts upon religion!" Unfortunately, what he really gave continual expression to, in his weakened age, was a regret that he had not, nearly forty years before, disregarded the safe-conduct which brought Luther to Worms, and saved the Church universal by taking the German's life.

But it was not the great emperor only, it was the empire, that had collapsed. Among the other disadvantages of the territorial principle, by which the religion of Germany was henceforth to be regulated, one was that it permanently split the Diet or Confederation. Germany remained divided into at least two princely factions, with both of whom no supreme power could work, and it became impossible for the Emperor of Germany, with his authority disowned everywhere outside, to build upon it as acknowledged even within. In point of fact, Germany gradually sank—not without suffering endless miseries from her divisions, as in the Thirty Years' War—into the state of neutrality and weakness which lasted till our second half of the nineteenth century. And the empire sank more rapidly still. Charles's successor, as King of Spain, broke the power of that kingdom by sending the Armada against the cliffs of Protestant England. His successors in the empire, mostly Hapsburgs, did not even attempt much, and had always to remember that half the members of the Diet were Protestant. So, towards the end of the eighteenth century, it came to pass that few in Europe remembered the existence of the Holy Roman Empire—"so called," said Voltaire, "because it is neither holy, nor Roman, nor an empire." It had become the shadow of a mighty name. Then came the Revolution, and in its intolerable brightness that dim shadow of past greatness could no longer remain. It simply flitted away. For when Francis II. of Austria, in August 1806, without any immediate compulsion, announced to the Diet his resignation of the Imperial Crown, he found no successor.

But the empire, though at the date of the Reformation it retained its majestic form and traditions, was even then decayed and ready to vanish away. It remains to consider how the new movement affected in Germany the larger question of the civil power generally, and of men's rights under it. It has often been alleged, and not without truth, that the strongest germ of political freedom, in an age when many such germs were floating

in the air, was the religious principle of the Reformation. That principle—that the common man has immediate relation and access to God, and in going to Him is free from all other authority over his conscience—had a great though indirect effect on political rights. More perhaps than any other single principle, it has tended gradually to displace the old doctrine of an unlimited divine right of one individual over another, and to substitute for it the modern doctrine, that the common man has a constitutional place, by representation or otherwise, in the body politic,—a body to which he does not, even so, hand over *all* his original duties or powers. The sympathy between the religious and political ideas is most intelligible, though their connection is indirect. We have seen already that all the powers of the human mind had during the previous century been greatly expanded, and that, without a formal attack upon authority, a deep sense of dissatisfaction with it had come to be cherished, and a vast amount of practical liberty was everywhere exercised. These were precisely the circumstances in which an earnest and devout defiance of the central power which for a thousand years had fettered mankind, was sure to produce an immense effect. All the vague forces and impulses for freedom, which had hitherto pressed outward in so many directions, now gathered together and poured through the breach which one German had made. Unfortunately the stage at which civil society had arrived was not such as to permit the political realization of the new ideas of freedom and responsibility for some time to come. There was perhaps only one class of men —the burghers of the free cities throughout Europe—who were by this time trained to the exercise and the appreciation of freedom. Other classes, indeed, were appealed to by the political idea, and at this critical moment they eagerly and rashly responded to it. But this haste was followed by a reaction, which did much to arrest, first the political, and then the religious future of the country.

In Germany, as elsewhere, the feudal or territorial rule of the small knights and barons was now giving place to that of the

greater princes, electors, and kings. It was, on the whole, as we can now see, a good exchange for the mass of the peasants and commonalty who were under both. But the **knights of the empire** naturally saw in it the mere increase of centralization and absolutism, with the withdrawal of their own ancient German freedom, and, not without much sympathy from others, they prepared for resistance and revolt. Their two leaders—Franz von Sickingen, a robber-hero, whose castle was near Worms, and Ulrich von Hutten, a man of brilliant and bitter genius, who will always have a place in German literature—both sympathized with Luther, and swelled the appeal in his favour to the Emperor. Consequently, when these and their allied knights broke out, two years after the Diet of Worms, into open rebellion in name of the emperor, and were crushed by the princes and electors, they perished not without the sympathy of men who looked to the coming of a new order. But a deeper convulsion was at hand—the **Peasants' War.** It was by no means the earliest in the same territory—the south of Germany. In Germany generally the peasant was still a serf, and the feudal yoke which weighed upon him had been rather increased by the introduction of the Roman law, whose absolutist principles gave no appeal against the arbitrary commands of the superior. In other countries matters were better. In England serfdom had almost ceased, and the peasant could appeal to one common law against any attempt of his lord to increase either his services or the money which he was now entitled to tender instead of them. In France the same reforms were begun, though imperfectly. Within the German Empire itself the Swiss Forest Cantons had, in the fourteenth century, asserted their independence in order to be free from feudal oppression; and in the fifteenth century the Graubund, or confederated peasants of the Rhaetian Alps, did the same. But the German peasant of the plains still groaned under the feudal and Imperial yoke. In 1476 there was an insurrection in Franconia; in 1492, in Kempten, by Lake Constance; in 1493, in Elsass; in 1502, beside the Neckar and the Rhine; in 1512, in the Black

Forest; and in 1514, in Würtemberg and Swabia. In the later of these risings, most of which were promptly stamped out, the symbol or standard of revolt had come to be the *Bundschuh* or peasant's clog, and their recurrence had led to the Swabian League, by which "the noble and knightly orders have agreed, whatever shall happen, to support each other against every such attempt on the part of the common man." It was on the New Year's Day of A.D. 1525 that the common man again rose in insurrection in Swabia, and on this occasion the peasants formulated their demands in twelve articles. They wanted—1. To choose their own pastor to preach the Gospel; 2. To pay a tithe of corn, partly for his support, and the rest to the poor; 3. To be free from serfdom, for Christ has made men free; 4. from game laws; 5. To be entitled to take firewood from the forest; 6. To have no new services imposed; or, 7. to receive fair pay for them; 8. To have rents valued and fixed; 9. To have fixed and written law administered, and not to be left to caprice; 10. To have common lands restored to the parish; 11. To be free from the heriot or death-tax; 12. These articles only to be insisted on if they are just, according to Scripture. Luther issued an appeal to both parties, in which, in the first place, he pointed out to the nobles that the peasants' demands were generally just. "You must not refuse their demand as to choosing pastors who may preach to them the Gospel,—the Government has only to see that insurrection and rebellion be not preached; but there must be perfect liberty to preach the true Gospel as well as the false." Even the remaining articles, which deal with the social state of the peasants, he thought also in themselves just. But then, turning to the peasants, he urged upon them, that while they might petition their lords for a change, they must not use force even for what seemed most right, but were bound to leave the sword and the whole right of administration in the hand of the higher powers. The delicate question, whether the people, or a section of the people, has a right to extort what is just and equitable, has been largely solved in later times by the device of representative

government, in the working of which constitutional pressure takes the place of violence. Two centuries were yet to pass before such a solution could be proposed to Germany, or, indeed, to Continental Europe. To avoid the practical consequences, Luther earnestly recommended arbitration, but the proposal failed. The insurrection began to spread everywhere, and the Reformer, true to the conservative principle he had expressed, joined in urging its immediate suppression by the princes. It was suppressed, with great slaughter and cruelty, and the wrongs of the peasants were left unredressed in Germany even down to the present century. Their demands had been generally simple and honest, and not much mixed up with theories. But the world was now entering upon a period of thought and theory, such as had not been known for a thousand years; and it was impossible to prevent an explosion of individualism. Among those known and suppressed at this time as **Anabaptists**, there were, no doubt, some who were simply in advance of their time, and who maintained the views as to toleration and the rights of conscience which have in our day become accepted truths, though then rejected by all. But others, and those the prominent and representative men, proclaimed anarchy in Church and State. Their principle of an inner divine light in the individual, was used to supersede not only the guidance of revelation from without, but all the institutions and organizations of men. That no Christian should be a ruler, or should use the sword, or should wage war even at the ruler's command, were among their precepts; and views which seemed to threaten the dissolution of society were at once put under the ban both of Catholics and Reformers. Many held, like Erasmus, that Luther had sown the seed of it all; and the imputation, not without a deep truth under it, haunted the Reformer and his friends. The Peasants' War, in 1525, was exactly intermediate between Luther's personal confession at Worms in 1521, and the first Confession or Creed of Luther's church in 1530. There can be no doubt that by the latter date he and his friends were already beginning to be influenced by a

general reaction against individualism, and, in particular, by a hesitation to apply the principles of toleration to the relation of Church and State. Yet the forces liberated flowed into their natural channel in spite of the hesitations of the leaders; and the first and greatest of the Protestant Confessions, embodying the authoritative views of the Evangelical (*i.e.* Lutheran) Church, forms also a landmark in the question of this volume. It marks a point which the advance of thought then for a moment reached, from which it soon receded, and to which it has only gradually returned.

The **Creeds** of the Church down to the Reformation contained nothing on the relations of Church and State. They confined themselves to confessing "the holy Catholic Church, and the communion of saints;" and for the principles of interaction which regulated the two bodies, we have had to go to civil legislation on the one hand, and to the edicts of popes and councils on the other. In the Reformation age it is to be otherwise. The same enthusiasm which carried men back to studying the records of primitive Christianity, led to their everywhere confessing their own religious faith; and the enormous pressure with which Church and State had, during recent ages, combined to prevent such confession, made it impossible longer to pass over their powers. Indeed, most of the confessions of the sixteenth century (and in particular this of **Augsburg** in **1530**, drafted by Melanchthon under Luther's guidance) were uttered and presented to the empire or other civil power, to satisfy it that the Protestants were catholic Christians of the ancient type, or at least were peaceful and religious citizens entitled to the protection of the law.

What, then, were the principles of the first Protestant Confession?

In the seventh article we find what it has to say—

*Of the Church.*

"There is one holy Church which shall abide perpetually.

But that Church is the congregation of saints (or, assembly of all believers[1]) in which the gospel is purely taught, and the sacraments rightly administered. And for the true unity of the Church it is enough to be agreed on the teaching of the gospel and the administration of the sacraments. For it is not at all necessary that its human traditions, as for example rites and ceremonies, which are instituted by men, should be alike in every place."

It is pointed out in the next article, and more fully in Melanchthon's *Apology for the Confession*, that while the Church properly consists of those who truly believe, and are as such known only to God, it necessarily becomes a visible body when these profess their faith, and "congregate" round the word and sacraments, with others who do the same. And that some existing, and even ministering, in the body are false professors and evil men, is no reason for leaving the Church. This confession differs from most of the "Reformed," *i.e.* Calvinistic, which followed it, in not adding "discipline," as a third note of the Church, to the "word" and "sacraments." Yet a subsequent article goes on to define the power of ministers of the word, or bishops, in a way which seems to provide for the same kind of internal regulation. It is entitled—

*Of Ecclesiastical Power.*

"The power of the keys, or the power of bishops, is, according to the gospel, a power or commission from God, of preaching the gospel, of remitting and retaining sins, and of administering the sacraments. It is exercised only by teaching or preaching the word, and administering the sacraments, to individuals or to a number, as the case may call for." And after pointing out that existing bishops sometimes had an *imperium* or power of the sword conceded to them by kings or emperors, but that this, where it existed, was a delegated civil function, different from the ministry of the gospel, it goes on: "This imperium must be distinguished from ecclesiastical jurisdiction. According to the gospel (or, as the phrase is, of divine right), no jurisdiction is competent to bishops as bishops—that is, as those to whom is committed the ministry of word and sacraments—except (1) to remit sins, (2) to examine into doctrine, and to reject that teaching which is inconsistent with the gospel, and (3) to exclude

[1] The latter is the form used in the German version, which was read to the emperor before the Latin version was put into his hand. The nineteenth article of the Church of England (adopted 1562) says, that "The visible Church of Christ is a congregation of faithful men (*coetus fidelium*) in the which the pure word of God is preached, and the sacraments be duly ministered."

men whose impiety is notorious from the communion of the Church—To exclude them not by human violence, but by the word." [1]

But the main contest in that age was against the aggressions of the Church upon the individual and the State. And in article sixteen the confession treats

*Of Civil Affairs.*

"Concerning civil affairs, our Churches teach that civil ordinances, when they are lawful, are good works of God, and that it is right for Christians to take the magistrate's office, etc. They condemn the Anabaptists, who forbid these civil offices to Christian men. . . . Christians, therefore, must of necessity obey their governors and laws, save only when they command to sin, for then they must obey God rather than men."

This, however, is a meagre treatment of the matter of the civil power, and in a long subsequent article, Part ii. art. 7 (some quotations from which we have anticipated above), the confession recalls how in time past there has been a mischievous commingling by bishops, and especially by popes, of the ecclesiastical power and the power of the sword, and goes on to state

*The Difference between Church Power and Civil Power.*

"We are compelled, therefore, for the satisfaction of men's consciences, to set forth the distinction between ecclesiastical power and the power of the sword. We have taught, no doubt, that both of them, because of God's commandment, are dutifully to be reverenced and honoured, as God's greatest blessings on this earth. But our view as to the distinction is this: The power of the keys, or the power of bishops, is, according to the gospel, a power or commission from God of preaching the gospel, of remitting and retaining sins, and of administering the sacraments. . . . It is exercised only by teaching or preaching the word, and administering the sacraments, to individuals or to a number, as the case may call for. For thereby are given to us, not corporeal things, but things eternal—an eternal righteousness, the Holy Spirit, and eternal life. These things come not to men, but by the ministry of the word and the sacraments. Seeing, then, that the ecclesiastical power deals with things eternal, and is exercised only by the ministry of the word, it does not interfere with (*non impedit*) the administration of civil affairs, any more than does

[1] In the *Apology for the Confession*, Art. xiv., Melanchthon explains that this includes a double power, *ordinis* and *jurisdictionis;* but not a tyrannical power, *i.e.* with no fixed law, nor a royal power, *i.e.* above law. The "fixed law" of Church jurisdiction is the word of God.

the art of singing. For the administration of civil affairs has to deal with other matters than the gospel deals with. The magistrate does not defend men's minds, but their bodies, and other corporeal things, against manifest injuries; and he coerces men by the sword and by corporal pains, in order to uphold civil justice and peace. Wherefore the ecclesiastical and civil powers are not to be confounded. The ecclesiastical has its own command to preach the gospel and to administer the sacraments. Let it not intrude into the office of another than itself; let it not transfer the kingdoms of this world; let it not abrogate the magistrates' laws; let it not withdraw from them lawful obedience; let it not hinder judicial decisions touching any civil ordinances or contracts; let it not prescribe laws to the magistrates as to the form of the commonwealth. In this way do our teachers distinguish the functions of either power, while they exhort men to hold both in honour, and to acknowledge both as the gift and blessing of God."

There are many reasons why prominence should be given to the utterances on this great question of the first-born of the Protestant Confessions. Its views on the functions and powers of the Church (with the exception of a certain significant weakness on the subject of its organization) are substantially the same with those of the rest of Protestantism. Its doctrines of the independent existence of the Church and the State, and of their separate and co-ordinate functions, are those of the early Church before and after Constantine, and, indeed, do not differ very much from those of early mediævalism before the days of Hildebrand.[1] But while it thus stands fundamentally on the general ground common to the Church in all ages, on one point—and

[1] Between Gregory I. and Gregory VII. there was no more powerful pope than Nicolas I.; but even his aggressive letter, addressed in **A.D. 865** to the eastern Emperor Michael, balances and "co-ordinates" things in the following way:—

"The administration of earthly things ought to be as absolutely separate from things sacred, as a clergyman or soldier of God should be from things secular. . . . The emperor never assumed to himself the rights of the pontificate, nor did the pontiff ever usurp the name of emperor, . . . in order that Christian emperors might stand in need of the pontiffs for the life eternal, and that the pontiffs in regard to things merely temporal might use the laws of the empire."

that the most important practically—it has made an immense advance. There is no hint here of the tenet which the whole Church had rushed into even before the Middle Age began,—that the magistrate should back with his sword the sentences of the Church, and visit heretics with civil pains. No such idea is suggested, and the whole drift of the discussion of Church and State in the creed is opposed to it. Nor is this all. Not only is the old ground of intolerance discarded, but the new is not taken up. Consciously or unconsciously, a political foundation is laid for that doctrine of *toleration*, which the world as a whole was only to accept some centuries later. For the definition here of the function of the magistrate, as simply defending men's persons and property against aggression, and that with civil justice and peace as his proper aim and object,—such a definition, whatever its defects, has at least the merit of cutting up all persecution by the roots, and making it impossible in the future on any great scale, whether at the instance of the Church or of the State itself. Had the world been ripe to take up the views which were laid down in the first Protestant Confession, it might have leaped over the difficulties on Church and State which have beset the three intermediate centuries, and have entered at once into a long postponed inheritance.

Nor does it seem doubtful that the Augsburg Confession in this respect reflects the early ideas or hopes of Luther himself. We have already quoted utterances of his which show that here, too, as in the primitive ages, Christianity when under persecution saw instinctively the necessity for the neutrality of the civil power in order to the liberty of conscience. And seven years before this confession was presented to the emperor,—in the first year, indeed, after Luther returned from his mysterious absence in the Wartburg,—he published a treatise expressly "On the secular power, and how far obedience is due to it." Here, of course, he urged that the secular power was of God, and independent of the Church, and that in its own province its actions, whether right or wrong, must be implicitly obeyed. And as to what its

province was, he was equally clear. "Its duty is to secure external peace and order, and to protect men—their persons and property—against ill-doers. . . . But God cannot and will not allow any one but Himself to rule the soul. Whenever, therefore, the temporal power presumes to legislate for the soul, it encroaches. No one can or shall force another to believe." And as to guarding men against heresy, that belongs to bishops, or to the ministry of the word, and not to princes. "God's word must here fight. Heresy is something spiritual, that cannot be hewn with steel or burned with fire."[1] And again, "Body, gold, and goods God has given over to the emperor; the heart He has reserved to Himself. The Church is to be governed with the spoken sword, the rod of the mouth, which alone touches the conscience. The civil authority has nothing else than the sword of the fist and a rod of wood." And as their means are different, so are their ends. "The end and aim of the Church is the peace of eternity; that of the State is peace on earth."

But from the first it was found hard to practise what in theory was so clearly seen. Even in 1522, having it put to him what should be done in a district where both evangelical and Romish teachers spoke, he answered that the *magistrate* "should hear both sides; and, since it is not good that in one parish the people should be exposed to contradictory preaching, he should order to be silent whatever side does not consist with the Scriptures!" Such a concession was of course fatal; and unfortunately, while all the German Catholic princes already maintained their right to hang and burn for heresy, the Protestant princes (with the single exception of Luther's own master, the wise and good Frederic of Saxony) were equally willing to be persuaded to put down, each in his own territory, any religion of which he did not approve. When pressed themselves by persecution, indeed, they were obliged to fall back on deeper principles. The phrase of their

[1] "These are the most powerful and comprehensive utterances which we possess from the mouth of the reformer about the demarcation of these provinces."—Köstlin's *Life of Luther*, p. 285.

*Protest* at Speier in 1529, that in matters of religion a majority cannot bind the minority, is quite in accordance with the early views of Luther on liberty of conscience, and with their own later Augsburg Confession. Yet, when it came to practice, the enacting of such a general liberty was not even proposed,—partly, no doubt, because it was hopeless to expect its concession. At Speier in 1526, and at Nürnberg in 1532, as at the final Religious Peace in Augsburg in 1555, the Protestant side merely proposed to base that peace on the compromise, *Cujus regio, ejus religio*,—whoso rules the territory, let *him* regulate the religion! And so much, and no more, was conceded to the Protestant nobles (and only, among them, to those who held the Lutheran or Augsburg form of faith). So strictly was the territorial principle adhered to, that the only alleviation of the local despotism was a "right of emigration," now conceded to every German, on grounds of difference in religion from his prince. But within Catholic and Protestant States alike, the civil power had thus assumed intolerant functions of a kind manifestly inconsistent with the views of the confession. Luther to the last seems to have desired to keep a certain accord with what it says of the magistrate,—that he deals merely with men's bodies and goods, and with a view only to maintain justice and peace. But even before the utterance of that confession, Melanchthon, in a letter written when organizing the Saxon electorate in 1528, had substituted the very different theory, that the civil magistrate's ultimate aim is to establish the true knowledge of God, and that, as the guardian of both tables of the law, he must deal with and punish heresy. So swiftly had the wheel of persecuting theory run its first circle.

The other wheel—of the subjection of the Church to the State—moved on the same axle, and on that side also the original theory was now crushed quite out of shape. It has always been felt a difficult question why Luther, whose fundamental principle was that believers are equally priests to God, and that they together form that "whole community of the Church," which

entrusts office to individuals, "did not give himself any concern to develop a Church government or organisation, while he nevertheless perceived that the very idea of the thing required it."[1] His early legal and absolutist training, and his subsequent attraction to the mystic and quietist writers, no doubt reinforced that healthful horror which he always had of mixing up the martyr and confessor spirit with political movements. But the result was that no self-government was tried even in the Church, far less in the State. The first difficulty he felt was, Who were to be held members of the Church? He was scarcely prepared to admit all who were subjects of a Protestant prince, as being therefore true or even professing believers. As early as 1523 he threw out an idea, which in 1526 he expanded in his "German Mass," that before long men in each place "who were Christians in earnest, and were willing to confess the gospel, should enrol themselves by name," and form a congregation for Christian worship and charity. But while doing homage to the idea, he added, "I cannot at present institute such assemblies; I have not the right persons to place in them: if the thing becomes possible, I shall not be wanting in this duty." Yet, before the same year ended, he used his influence to prevent the experiment being tried in Hesse, where a synod under the landgrave had approved of a constitution by which congregations, thus voluntarily enrolled, should appoint their pastors and bishops, who with other deputies should in turn form a general assembly for the whole Church. Luther, perhaps with practical sagacity, objected to it as premature. He "had not the boldness" for it, he said. "Laws seldom succeed which are put too early into use and practice; they must first fashion themselves." No doubt, too, he was much influenced by Melanchthon, who had at this time a fixed idea that there should be a doctrinal reconciliation with the old bishops, and that *they* should do the necessary organizing. But by the time when the confession was presented in 1530, the opportunity for instituting self-government was practically gone,

[1] Dr. Dorner's *Hist. of Protestant Theology*.

and it was equally manifest that the bishops were not likely to supply its place. Yet the need for organization was of course pressing, and during the ten years that followed, till 1540, the work throughout Germany was gradually transferred to those secular and all-powerful hands which in theory had least to do with it. In Saxony, indeed, Luther, or rather Melanchthon, had made a beginning as early as 1528. The former's preface to the latter's scheme explains (in the Englished words of Luther's biographer), "that since the bishops and archbishops had proved faithless to their duty, no one else had been found whose special business it was," and the temporal sovereign had been requested "to render this service to the gospel, out of Christian charity, since, in his capacity as civil ruler, he was under no obligation to do so." Luther himself is stated to have always adhered to this awkward explanation of the civil power's entering upon Church rule; and, while admitting in later years that the Protestant princes had really become bishops, he labelled them "bishops for want of better" (Nothbischöfe; Makeshift-bishops). Yet during those ten years the makeshift had developed into a regular *Jus Reformandi*, or right of organizing and regulating the Church, claimed by the Protestant sovereign; and the theologians were obliged to support it by the idea of a "double character" (*duplex persona*) sustained by the one man. In Dante's phrase reversed, the "crook was grafted on the sword." Practically this came to be "simply the royal supremacy even in ecclesiastical affairs" (Dorner); and in 1540 a further step was taken, by putting the Church under those *consistories*, which have down to our own day governed the Lutheran communion. A consistory is a board of jurists and theologians, appointed by the Crown, which elects and governs even the superintendents (the highest ecclesiastical functionaries), and which very soon claimed for itself, along with secular powers, the duty of preserving doctrine, regulating worship, and pronouncing excommunications; in short, almost all that the Reformers had reserved to the "congregation" and the "ministry of the word." Luther had his

misgivings, and expressed them as usual in sharp-edged words: "Satan remains Satan. Under the pope he pushed the Church into the State; now he wishes to push the State into the Church."[1] But when his great heart was laid to rest in 1546, the Protestant princes had so far successfully defended the Church in Germany with the sword, and the dangers of their episcopate were in the future. And meantime the problem of civil and religious freedom, never so well solved in theory as in the creed of the Lutheran Fatherland, had passed in practice to the other "Reformed" communions chiefly in lands outside.

[1] The translation is taken from Dr. Geffcken's *Church and State*, the two volumes of which in English are valuable on all parts of the history, and especially as to that of Germany.

## CHAPTER VII.

### THE REFORMATION: CALVIN, ENGLAND, AND SCOTLAND.

THE "Reformed Churches" have been generally taken in England as equivalent to the whole of Protestantism. But on the Continent, and in Germany especially, the "Reformed" is distinguished from the "Evangelical" Church, and Protestantism has been divided not unequally between the two. The Evangelical branch includes Sweden, Norway, and Denmark, as well as most of Germany, and is derived historically from Luther. The Reformed, originating in Switzerland, and spreading through France, Holland, England, Scotland, and America, has transmitted in its flow the controlling influence of Calvin. Both were protests against the interposition of the Church between God and man. But while the Lutheran Reformation builds rather on immediate access to God through His promise, the Calvinistic founds rather on the immediate authority of God through His truth. It might be supposed that the former of these would do more for the freedom of the Church. And so in the first instance it did. But, as centuries have passed, the second has in this respect almost excelled it.

It is noteworthy that the Reformed or Calvinistic branch of Protestantism, which has prospered in democracies like Holland, Switzerland, and the United States,[1] originated in a peasant republic. Switzerland had been free for two hundred years, when

[1] In Scotland, also, the Reformation was largely influenced by what were then known as the republican, but what in modern times may be accepted as the constitutional, doctrines of George Buchanan, who taught in his famous

Zwingli commenced the Reformation at Zurich; and while the form of government varied in the different cantons of the Confederation, all were more or less democratic. This earlier liberation from feudal and imperial rule made it easy now to assert a like freedom from Rome on the part of each small Swiss republic. But it made it easy, too, to take a farther and more doubtful step. In Switzerland and Germany alike, the Reformation meant for the individual man not only freedom from human authority in religion, but subjection to divine authority. Why should not the same rule be applied to the corporate self-governing body, and the magistrate chosen to represent it? Why should not the State, now free from the authority of man, be subject to that of God? In other words, why should a self-governing State not have an opinion and a conscience in matters of religion? Zwingli held the priesthood of individual Christians, and their freedom from the hierarchy, as strongly as Luther. Further, he and all the Reformed agreed with Luther in one great principle as to "the magistrate," which finds expression in all the rising confessions of Europe. He must, they all held, be independent in religious matters of the authority of the Church. But they added that if he is to act in religious matters at all (which was as yet assumed), he is bound to have respect to divine truth and divine authority. As a private individual, the magistrate had now, on the new principles, what he never had before, his private judgment in matters of religion. But to this, on the side of the "Reformed," was now very generally added a public judgment in religion, as part of the magistrate's duty.

Indeed, the revolt against the despotic power of the spirituality was at first stronger still. In the Theses which Zwingli published in 1523 (seven years before the Augsburg Confession), he went very far towards transferring that whole power to the Civil State. There is no such thing, he says, as "ghostly power;" it all

*De Jure Regni* that the prince's power is a trust from the people; that its extent is limited by the terms of the trust; and that if he wilfully transgresses it, he may be resisted and deprived.

belongs to the magistrate, and the magistrate should rule according to the law of Christ, and may be deposed when he does not. This doctrine of a theocracy or "Civitas Christiana," which might seem to work well where the State was tolerably unanimous (as afterwards in Geneva), led to immediate confusion in a Confederation many of whose magistrates, like those of the Forest Cantons, were conscientiously zealous for Rome; and Zwingli's extreme theory died with him in 1531 on the fatal field of Cappel. The exaltation of the functions of the magistrate, however, was in that age favoured by many influences. The First Helvetic Confession, published at Basle in 1536, gives the accepted view on this point of the Reformed cantons of Switzerland, and it formulates a dangerous doctrine, which for generations was to retard the advent of toleration after its hour had struck. "The *chief* office of the magistrate," it says, "is to defend religion, and to take care that the word of God be purely preached, and that education of the young, public worship, and the poor, be all maintained. *In addition* to these, he is to judge justly, maintain the public peace," etc. This inversion of the magistrate's duty is, as we have seen, contradicted throughout by the more famous Augsburg Confession, published six years before; and it was to a slight extent receded from in the Second Helvetic Confession, a document of great authority, published in 1566. "The magistrate," the later document holds, "is instituted for the peace and tranquillity of mankind, and to procure that is his *chief* office." But as he can do that most successfully by being himself a religious man and encouraging the truth, "we hold also that the care of religion is a first duty of the *religious* magistrate," who should follow God's word in his legislation, and punish incorrigible heretics. The proper office of the magistrate is here declared in nearly the same terms as those used by Luther, and the addition of a duty to religion is made matter of reasoning, and even so is apparently left conditional on the official being himself a believer. Both these Swiss Confessions also go back to the earlier and universal Christian doctrine, by lodging a "power

of the keys" in the Church and in its pastors. In so doing they no doubt make room for a possible collision between the Church and the functions for the first time ascribed to the magistrate. The same view of the magistrate's functions spread to the other Reformed lands. Yet even in Switzerland, and within the limits of the Confederation as a whole, it was the doctrine of toleration that gained the first-fruits of triumph. The bloody and bitter conflicts between the Protestant and Catholic cantons ended in two treaties, embodying a compromise singularly like that of Germany. It was provided in both documents, that the two parties should be left "in possession of their faith," and this mutual toleration by independent States was founded in 1529 on the general principle, that "God's word and the faith are not things as to which it is lawful to use force." A step farther than in Germany was taken in the same direction, by the provision that in the independent territories of Switzerland "the majority in each congregation" shall decide for or against the Mass. So early did the true practice outrun the false theory.

Instructive as this Zwinglian episode was, the history of Calvin and Geneva was more so. Six years after Zwingli died, Calvin wrote his *Institutes*, the most influential of all Protestant treatises, in the form of an exposition of the Apostles' Creed. In it he expounded the Christian faith in the "Holy Catholic Church," as an independent institution enjoying self-government under the laws of Christ, and deprecated confusion between this function and the function, equally divinely derived, of the civil magistrate. In the same year, 1536, he was invited to settle at Geneva by the magistrates, and at once commenced to organize a Church there, with pastors, elders, and deacons, on the supposed primitive model. Before two years had passed, however, this claim to self-government led to a memorable collision. The "power of the keys," or ecclesiastical jurisdiction, implied, in the view of the "Reformed" Church, the right of refusing to admit to the sacraments men openly vicious; and, after careful inquiry, Calvin and the other pastors announced to the magis-

trates of Geneva that they, for the Church, must act upon this principle. The magistrates rejoined that this was setting up a new papacy, and that it belonged to the civil power to repress the vice of the city by its own laws. Calvin, unlike Luther, held that independent Church rule and discipline were fundamental to church life ; and he and his friends, refusing to submit, were actually banished from Geneva. Years passed, and in every adjacent place where the new religious life took root, it grew up in the form of a free Presbyterian organization, till, in 1540, even the learned and luxurious Geneva yielded, and recalled the Reformers on their own terms. Calvin and his Church consistory at once drew up the Ecclesiastical Ordinances, which they described as "the spiritual regimen, which God hath ordained in His Church, reduced to a form proper to be observed in the city of Geneva ;" and for the twenty-four years of his life that great community moulded itself, even externally, upon the form which the Church imposed from within. The Church had secured in most points its own independence, and in theory it acknowledged the equal independence, in religious matters, of the magistracy. The civil power had a right to judge as to the truth for itself ; indeed, it had no right to refrain from judging. For Calvin held, with the other Swiss Reformers, that (as the French Confession drawn up by him in 1559 puts it) "God has put the sword into the hands of magistrates to suppress crimes against the first as well as against the second table of the law of God." The result was that the Ecclesiastical Consistory of Geneva, after working out the Ordinances each week in the properly Church sphere (where in dealing with offences it confined itself to purely spiritual penalties, the highest being separation from the Church and its sacraments), reported these offences regularly to the council or magistracy. And the council regularly added civil penalties, some of them taken from more ancient, and others from more recent laws of the city. The result occasionally was a cruel sentence on heresy, as when Servetus was burned for violent denial of the doctrine of the Trinity. But dark scenes

like this were rare, as compared with those constantly recurring on the scaffold of every Catholic city around. What was more characteristic, was the minute and severe regulation of morals, enforced by the Church with spiritual censures and by the council with material punishments. In the glow of that wonderful morning of the Reformation, this severe repression was little felt. But the moment that began to pass away, the double chain fretted soul and flesh. Yet it was not caused by any confusion between civil and spiritual government. They were kept theoretically distinct, but the office of the magistrate, though distinct, was held to have nearly the same scope and detail as that of the other. And the result was a virtual enforcement by him of regulations which (in the spirit of that time) were far too minute and oppressive to the individual man, even had they been retained merely in the hand of the Church.

Intolerant as the doctrine of the Reformed Church on the civil magistrate's duty was,[1] it can hardly be branded as selfish. In many cases, no doubt, it wrought for the protection of a State against Catholicism and the Holy League. But in others it seemed to sanction the bitterest persecution of those who held it. Nowhere was this more striking than in France. It was in 1559 that Beza presented to Charles IX. that (French) Confession of La Rochelle, which, as we have seen, gives to the magistrate a sword to avenge offences against "both tables of God's law." But for thirty years before there had been almost continuous use of that sword against the party now known as Huguenots. The absolute power of the French king, and the transfer to Francis I., by the Pope, of the patronage of the Gallican Church, had made it his apparent interest, as well as duty, to persecute dissent. Yet the theory of his duty to do so was adhered to by the

[1] Luther and Zwingli objected to the magistrate punishing heresy *capitally*, and in the controversy after the death of Servetus, a few writers took the same view. But Beza and the authoritative theologians followed their creeds in giving the magistrate the same power as to heresy which had for centuries been exercised,—though, as pointed out in the text, they based it on another foundation.—See Hallam's *Literature of Europe*.

Protestants all through the fierce wars that followed,—their sole forlorn hope being that the king might come to see and confess the Scripture truth as they saw it. But in that case it would on the same theory at once become his duty to use the same sword against the Catholic portion of his subjects, not as rebels but as idolaters. No one can estimate how much a prospect so hopeless and a doctrine so unreasonable, held substantially on both sides, must have embittered the contest. Nor can any one wonder that the close came in a way to disappoint all such expectations. The Huguenot leader, Henry of Navarre, became a nominal Catholic, and by this fall mounted to a throne. But in doing so he gave, in the Edict of Nantes (1598), a great charter of toleration. It allowed Protestants everywhere to believe, and, in the great majority of places, to worship according to their conscience; but the Roman faith remained established, and while Protestants were admitted to civil privileges, they were obliged to pay tithe to Catholicism. Here, again, the step in advance, however much it may have been really due to the fundamental Protestant principle of private judgment, was hindered rather than aided by the new theory of the magistrate's religious duty.

The same remark applies to the still more terrible, and, at last, victorious fight of Protestantism in the Netherlands. The new theoretical function of the magistrate,—"to judge for himself as to religion, and then use the sword against its opponents,"—might seem as much opposed to toleration as his old duty,—"to use the sword against all whom the Church should condemn." Yet, practically, Protestant intolerance was from the first hesitating and occasional, compared with the remorseless consistency of persecution which stamped out private judgment in Spain, and then burst in blood on the Low Countries. And it was in the very midst of this long agony that the Belgic Confession of 1561 declared that the office of the magistrate is not only for the welfare of the State, but for the maintenance of the sacred ministry, and "to remove and destroy all idolatry and false

service of God." The terror of that spiritual despotism which had made the State its sword for ages, was still pressing,—too pressing to leave room for nice questions as to a new one which might be set up on the side of the independent State.

But in the meantime, in England, there had been a new experience. In the "Reformed" lands which we have just reviewed, or at least in those where it at last made good its footing, the new Church found itself surrounded by republicanism or constitutionalism; and it consequently organized itself at once on principles of popular self-government. In Germany it was otherwise; and Luther, encompassed by feudalism, had shrunk from the self-organization of the Church which its doctrines seemed to demand. But even there the Reformation was originally the work of the people, while the princes interfered sometimes to protect it from violence, sometimes to arrest its growth. In England, however,—as indeed unfortunately in most kingdoms of Europe,—arbitrary regal government had at this critical time reached its height. The Tudor Henry VIII. was perhaps more absolute than any sovereign on the English throne before or after him. He had no sympathy with the Reformation, and until his death it cannot be said to have even commenced in England. But he was led by circumstances practically to substitute himself for the pope as governor of the Church; and he thus instituted in England a singular form of the world-wide problem,—a form which no one can think likely to be final.

Henry VIII. was the contemporary of Charles V. and Francis I., and he had eagerly entered upon the great game which was rendered inevitable by the new system of national monarchies. In that game of politics the pope had once been arbiter, but he, like the emperor, was now reduced to play off one party against the other. England, as a separate "gem set in the silver sea," had naturally a more compact nationalism than other countries, and, as we have seen, it was one of the first to repress the interferences and to refuse the exactions of Rome, and, above all, to

forbid appeals to that foreign jurisdiction. With the growth of England, indeed, there had thus come to be what was in some sense a separate Church of England (*Ecclesia Anglicana*). Yet not only was the English faith still that derived from the later Western Church, but even the papal supremacy was admitted, while the more irritating and rapacious exercises of it were latterly refused. Henry was fated in his own person to give on this subject a startling illustration of change. As a young man he had some literary and theological ambition, but his instinct as an autocrat led him to use it in a direction opposed to that generally taken by the "new learning." In addition to the general desire to have the pope on his side in the European conflicts, Henry had a special domestic tie to Rome. He had married, when only eighteen, Catharine of Aragon, an aunt of the young Emperor Charles. She was then six years older than himself, and had already been the wife of his full brother Arthur. The second marriage was thus a doubtful connection, which acquired an appearance of lawfulness by the previous papal dispensation, on which also depended the legitimacy of Mary, at this time Henry's only child. All these things were in the young monarch's mind when he answered Luther's book on "The Babylonish Captivity," in a treatise which not only defends the seven sacraments, but counsels submission to Rome as the sacred mother of the Church, and not its "captor." He accepted from Leo as reward the title of "Defender of the Faith;" and even when, years after, he desired to replace his Spanish wife by the younger Anne Boleyn, it never occurred to him or to his adviser Wolsey that there was any other way but to petition the Roman Curia to annul the old dispensation. It was only when the royal suitor realized that there was no hope of getting the pope's judgment reversed, that he grasped at the idea,—suggested, it is said, by Cranmer, and quite in the line of the rugged independence of the English people,—to deny the original power of the pope to grant it. The moment the suggestion was made, the imperious tyrant carried out the scheme with admirable energy, enlarging it at the same time in a most unexpected way,

and with a support from Parliament which showed that the English had come to have little respect even for their native clergy. On the marriage question the universities of Christendom were appealed to instead of a council, and that largely by bribery; and by a narrow majority they found that the pope had no right to grant the dispensation in the case of Arthur's widow. The English clergy would not have seriously objected to this or any step relieving them from the authority of the pope. But graver changes were prepared for them by their king. A Parliament was called together in 1529, which sat for seven years. At the instance of Henry, it gave voice to the long dissatisfaction of the English people, by petitioning to strip the spiritual courts of their too lucrative powers. The clergy ventured a protest for "our authority of making of laws" for the Church, suggesting that, while they were always desirous to follow His Grace's suggestions, he also might "temper his laws accordingly, whereby shall ensue a most sure and hearty conjunction and agreement, God being cornerstone." The king prepared to beat down this theory in his most brutal fashion. Intimation was made to the bishops and whole clergy of England, that they had incurred the penalties of forfeiture and imprisonment under the statutes of Edward III. The pretext was their having received Wolsey as papal legate, which they had done very unwillingly, and at the desire of the Parliament and king, who had himself procured for Wolsey the office they were now to be condemned for recognising. Convocation, terrified, asked to be let off for a fine of a hundred thousand pounds. They were then informed that, in addition to paying this to the king, they must acknowledge and designate him as "Protector, Lord, and also Supreme Head of the Church and Clergy of England!" For five days they hesitated, but then agreed, adding to the words "Supreme Head" the saving clause, "in so far as the law of Christ permits." In 1532 this was followed and explained by resolutions of Convocation, known as the "Submission of the Clergy," by which they bound themselves not to enact any new "canons, constitutions, or ordinances" without the

king's licence and approval; and, further, to submit all existing ones to be maintained or abrogated according to the judgment of the king, and of a commission, half clerical and half lay, but all to be chosen by him. This was at once translated into a still existing statute, and was followed by others asserting the king's ecclesiastical supremacy. It may be noted that the Acts of Parliament of the time, even when they narrate these exacted concessions, avoid founding upon them, and assert the royal supremacy over the Church as ancient and undoubted. They also, of course, omit the attempted qualification as to "the law of Christ;" and indeed, Henry, to avoid ambiguity, exacted an acknowledgment of the Headship *without* the saving clause from each bishop individually. Before quoting from the Acts now in force, it may be well to recall that those of Henry VIII. have little or no connection with the Reformation in the sense of change of faith. Henry to the end of his life burned those who rejected the Romish doctrine, while he beheaded those who adhered to the Romish supremacy or scrupled at his own.[1] But his chief enactments as to the royal supremacy (maintained by Edward along with the new Articles of Faith, but repealed by Mary) were, with some modifications, revived by Elizabeth, whose leading statute is in full accord with their provisions.

[1] Sir Thomas More, a persecutor of heresy, was yet one of those who had been willing to abolish or limit the papal authority over the English Church. But rather than take part in substituting for it the royal power, he had resigned his chancellorship. Yet, even in prison, his silent consistency was a reproach to the tyrant outside, and he was ordered to take the oath, which acknowledged both the change in the royal succession and the king's church-headship. The former he willingly offered, the latter he refused. Rich, the solicitor-general, reported More's answers. When he urged upon More the authority of Parliament and the law of the land, "If it were enacted that I, Richard Rich, should be king, would you not acknowledge it?" "I would," said More; "but if it were enacted that God should no longer be God, would you acknowledge it?" "No," admitted Rich, "because that is impossible. But if you would acknowledge me as king on the authority of Parliament, why do you not acknowledge the Headship of the Church on the same authority?" "Because," said More, "a king can be made by Parliament and deprived by Parliament, and the subject is obliged to own it, for to so much his consent in Parliament is implied. But the other the subject is not obliged

The pre-Reformation theory which Henry VIII. had desired to transmit, is given in very striking terms in the preamble to his statute "For the Restraint of Appeals."[1] It declares (omitting words to us surplusage) that—

"By divers old histories it is declared that this realm of England is an empire, governed by one supreme head and king, unto whom a body politic, compact of all sorts and degrees of people, divided in terms and by names of spirituality and temporality, be bound to bear, next to God, a natural obedience, he being also furnished by God to render justice in all causes within the limits thereof; for when any cause of the law divine or of spiritual learning happened to come in question, it was declared and interpreted by that part of the body politick called the Spirituality, now being usually called the English Church, which always was and is sufficient of itself, without exterior persons, to determine all such doubts, and to administer all such offices and duties as to their rooms spiritual doth appertain; for the due administration whereof the predecessors of the king and his nobility have sufficiently endowed it; and the laws temporal, as to lands and goods, and unity and peace, are administered by judges and ministers of the other part of the said body politic, called the Temporality; and both conjoin in the due administration of justice."

The statute is still in force, but what is here presented as the ancient theory, by which the Church and the Spirituality, held to be nearly the same, were contrasted with the laity, must have suffered much modification when, next year, Convocation statutorily surrendered so much to the lay king. Still more clearly must it have done so, when an Act in force to our own day[2] provided, that the "Head in earth" of the Church being a layman, and bishops and clergy having no ecclesiastical jurisdiction but "by, under, and from" him, all lay and married persons whom he

to own, for to it his consent cannot be given in Parliament." More denied that he had entrusted these constitutional maxims to the man "of light tongue and not commendable fame" who turned witness against him. But the supremacy which the Churchmen had accepted, this layman steadfastly refused, and he went to the scaffold with a serene gaiety which fixed the gaze of Europe.

[1] 24 Henry VIII. c. 12.

[2] 37 Henry VIII. c. 17.

may appoint, provided only they are doctors of the *civil* law, may also exercise ecclesiastical jurisdiction. But the change in theory was more striking still, when, after Henry's death, the Church of England came to adopt Articles of Faith of a Protestant and rather Calvinistic type, and put into its creed a definition of the Church in accordance with the Reformed Confessions generally. By the 19th Article the Church was now described no longer as the Spirituality in contrast with the Laity, but as the whole mass (in the Latin version *coetus*), or "congregation, of faithful people." Yet, while the laity are thus recognised as the Church, no function of self-government or of proper church organization is in England conceded to them. The local and provincial administration remains in the hands of the clergy and bishops; while the general governing power, apparently including legislative, administrative, and judicial alike, is swept by the statutes into the hands of the king. The first Act of the first Parliament of Elizabeth, after abolishing the papal jurisdiction, obliges every ecclesiastical person to swear that the monarch is (not the supreme Head of the Church, but) "the only supreme governor of this realm as well in all spiritual or ecclesiastical things or causes as temporal;" and the rather weak explanation obtruded in the Article of Religion, that "we give not to our princes the *ministering* of the word or sacraments," only brings out more strongly their claim to rule the ecclesiastical as well as the temporal state. The Act abolishing appeals to Rome had already substituted ecclesiastical appeals to the king in Chancery,—to what was called the Court of Delegates,—"for lack of justice in the courts of the Archbishops or in any the king's dominions." And for the more active exercise of the supremacy, the statute of Elizabeth goes on to provide as follows: "That such jurisdictions, privileges, superiorities, and pre-eminences, spiritual and ecclesiastical, as by *any* spiritual or ecclesiastical power or authority hath heretofore been or may lawfully be exercised or used, for the visitation of the ecclesiastical state and persons, and for reformation, order, and correction of the same, and of all manner of errors, heresies, schisms, abuses,

offences, contempts, and enormities, shall for ever be united and annexed to the imperial crown of this realm." And not the sovereign only, but, as the Act further provides, any subject whom he may appoint, "may exercise under him all manner of jurisdictions, . . . to visit, reform, redress, order, correct, and amend all such errors, heresies, schisms, etc., which by any manner spiritual or ecclesiastical power, authority, or jurisdiction, can or may lawfully be reformed," etc. A subsequent clause provides that such a royal commission shall not declare anything to be heresy unless made so by Scripture, *or* by a General Council, *or* by Parliament with assent of Convocation. But no determination of the Parliament then sitting should ever be held heresy, no matter who refused to assent. A later statute[1] ordered the Articles of Religion, agreed to in Convocation and put forward by the queen's authority, to be subscribed by each incumbent. It was provided that the Crown should appoint the dignitaries of the Church, while private patrons should present to livings. Gross corruption having been reported by a commission as existing in the monasteries, those wealthy institutions were suppressed throughout England, their funds were appropriated by the Crown or its favourites, and the great abbots ceased to sit in the House of Lords. A statute provided that bishops are still to be formally elected by the chapter; but with the *congé d'élire* a royal missive is sent down, nominating the man to be chosen, and if the members of the chapter fail to elect that individual within twenty days, not only are they subject to heavy penalties, but the Crown may at once appoint directly by letters-patent.[2] Lastly, Elizabeth's Act of Uniformity[3] provided that every layman in England should attend the parish church, under spiritual penalties to be imposed by the clergy, and fines by the justices of peace.[4]

[1] 13 Elizabeth, c. 12. [2] 25 Henry VIII. c. 20. [3] 1 Elizabeth, c. 2.

[4] On the subject of the Reformation, the Parliamentary Report (1883) to the Crown on the Ecclesiastical Courts is valuable; but it has a clerical bias, so as even to omit from its reprint of the Reformation statutes the above Act which gives seats in those courts to laymen, and assigns reasons for doing so.

The statutory Reformation in England was a rough and hasty business; but it hurried through in the tyrannical Tudor way a process which was already going on, and the product at Elizabeth's accession was not much in advance of what might have been more legitimately attained. A more serious result of taking this royal road was, that the new constitution naturally came to be founded on inconsistent and arbitrary principles. So many, indeed, were the anomalies, that to some extent they balanced each other, and made room within the pale for a strong and rich type of Christian civilisation. Yet this inevitably left questions to be solved in the future. Thus the spirituality or clergy, who should have been the natural opponents of the administrative supremacy of the Crown, avoided such collision, in the earlier Stuart days, by becoming themselves its active agents; and the result was a shock to the Crown in the seventeenth century, and the loss of most of its powers civil and ecclesiastical, except as exercised with consent of Parliament. But the parliamentary or legislative question, which thus remains, is graver than the old administrative one, or than the judicial which now troubles the consciences of churchmen. Parliament is now recognised as the Church legislature. The Christian people are recognised as the Church, but they do not exercise self-government or elect their own officers. And, in absence of internal organization, they seem not disposed to acquiesce in any claim of the Convocation of the clergy either to legislate or to rule. The people of England are really represented by their civil legislature, which has historically succeeded to the powers over the Church given at the Reformation to the Crown;[1] and anomalous as such external powers may be, a Church without self-government can only develop under guidance from without. The difficulty is, that

[1] Some excellent representatives of the Church of England, however, retain its ancient preference for an irresponsible ruler, Tudor or Stuart. "The supremacy of the Crown we loyally accept, as in accordance with the will of God; but the supremacy of Parliament is another matter. We may need to be delivered from a Parliament as we were from the pope."—Bishop of Lichfield (Maclagan) at Church Congress, October 1887.

Parliament is now external to the Church, in another sense than that in which it always was. The law does not now demand that either the members of the legislature, or those whom they represent, should belong to the Church at all. And as masses of the people, and even of the Christian people, are now outside the Establishment, they naturally expect that legislation by their representatives shall be conceived in the interest of all.

**Scotland**, in this matter of the spontaneous organization and self-government of its Reformed Church, was from the first a contrast to England. The great crisis here was the meeting of the Parliament in 1560. But even before that date there were, as the Scots Confession declares, "in our cities, towns, and places reformed" local churches, sometimes fully organized with pastors, elders, and deacons; and in December 1560 "the ministers and commissioners of the particular kirks of Scotland convened, to consult upon those things which are to set forth God's glory and the weal of His Kirk in this realm," in a meeting which, two years after, took the name of General Assembly. But already in August the Parliament had met (upon the death of the Queen Regent and without royal authority), and requested the "Protestants of Scotland" to exhibit to it the **Confession** of their faith, a document which, on being publicly read, the Estates authorized and ratified as the true doctrine. Care was taken in the whole creed transaction to keep the Church and the State independent of each other, with God and His word as the sole authority over both. Before this time, Knox says, on the part of the Church, we "required nothing but liberty of conscience, and our religion and fact to be tried by the word of God;" but that religion was now tried and established by Parliament, though the advent next year of Queen Mary, whom Catholic Europe looked to as a champion, prevented farther progress till her abdication in 1567. Here, as elsewhere, a difficulty was in the meantime caused by the functions ascribed to the civil power. "To kings, princes, rulers, and magistrates we affirm that chiefly and most principally

the conservation and purgation of the religion appertains," the Scots Confession asserts. The danger of this doctrine was in the meantime somewhat tempered by the anti-absolutist or constitutionalist views as to royal authority which Scotland had begun to entertain, as George Buchanan's contemporary book, *De Jure Regni*, bears witness. Yet loyalty had been a passion in that country, and their brilliant young queen was acknowledged to be, at least, the chief magistrate. Accordingly the conversations of Knox with Queen Mary, recorded in his great *History*, show him labouring to reconcile with this assertion of her prerogatives as to religion, other positions which he earnestly maintained, viz. the independence of the Church, and the duty of obeying God rather than man. The result during those seven years was a compromise, or rather an equal struggle. Knox naturally failed in getting a Catholic queen to conserve the Evangel and purge it from the Mass; but neither did she venture to purge her kingdom from Protestantism, which, according to her convictions, was the function and duty assigned to her. The Kirk during that long time was not established; its creed, though ratified by Parliament, was not confirmed by the sovereign; and its Book of Discipline was rejected by both. On the other hand, the attempt, made immediately after the queen's arrival, to suspend the meeting of General Assembly upon the royal permission, was promptly resisted. "Take from us the liberty of assemblies," said Knox, "and take from us the gospel." Accordingly, without waiting for State sanction, and rejecting all royal supremacy, the representatives of the Church, clerical and lay, met year by year, and built up the organization, and carried out the discipline, of the future Church of Scotland. So things remained till 1567, when Mary, having married the murderer of her husband, was compelled to abdicate in favour of her infant son. In his name statutes were now passed confirming those of 1560, which confessed the Protestant doctrine, abolished the papal jurisdiction, and forbade the mass and appeals to Rome under heavy penalties. To these were added one which declared "the ministers of the Evangel

and the people who, with them, profess Christ," to be the only true and holy Kirk of Jesus Christ within this realm, and another by which a coronation oath bound the sovereign to maintain the true religion and to withstand the false, to rule according to the word of God, and, in words more appropriate to the Catholic theory than to the Protestant, to root out of the kingdom "all heretics and enemies to the true worship of God that shall be convict by the true Kirk of God of the foresaid crimes." Protestantism in Scotland, thus self-organized, asserted an autonomous power of government and discipline, like the Churches in France, Netherlands, and Switzerland. It did not accept its authority, as in England, or its form, as in Germany, from the hand of the prince. Yet the State had by no means so explicitly acknowledged that independence as the Church claimed it. And the close connection between the two powers brought dangers. It was henceforth nearly impossible for the Church, without State consent, to exercise its freedom in graver matters, *e.g.* in respect of creed or organization. And it was quite possible that the power ascribed by it to the magistrate with respect to things of faith, might come to be used by him for other purposes than that intolerance and rooting out of dissent for which it was in the meantime invoked.

## CHAPTER VIII.

### EUROPE, FROM THE REFORMATION TO 1789.

THE Reformation thus left the relations of Church and State throughout Protestantism very imperfect, and inconsistent with any theory, old or new. But an immense shock and movement of opinion had taken place. If we take the period from Luther's appearance at Worms in 1520, to the Peace of Augsburg in 1555, and compare the results of only thirty-five years with those of any 350 years since Charlemagne or even Theodosius, we shall recognise that a new world has now burst upon us. For three or perhaps four centuries before, a preparation had been going on. During all that time the awakened intellect of man had been beating in vain against invisible but seemingly immoveable barriers. Now the barriers on the religious side had been suddenly thrown down. And the first rush of the liberated forces of our modern time was so strong as ere long to cause a reaction,—to be followed by a more leisurely and expanded flow of the original influences.

The Peace of Augsburg took place during the sitting of the Council of Trent. That Assembly is important on two grounds. In it Catholicism defined its position. But it also commenced what has been called the counter-Reformation. The doctrinal definitions of Trent were fatal to the hopes of union cherished by men like Cardinal Pole on the one side, and Melanchthon on the other. But the ecclesiastical definitions were equally fatal to the independence of churches and the rights of general councils,

as these had been affirmed no later than at Constance in the century before. Bishops and priests throughout the world were now taken bound to swear that they recognised the city of Rome as not only the mother but the "mistress" of all churches, and that they would render no longer honour but "obedience" to its bishop, as "the vicar of Jesus Christ." The Council sat originally in A.D. 1545, and it rose in A.D. 1563. But its energetic period dated from the year 1555, in which, the emperor being obliged finally to make peace with the Protestants, the fiery old Cardinal Caraffa was able to commence, as Paul IV., an uncompromising policy on behalf of the Church itself. The greatest of its proper powers by far was the new spirit of religious zeal and devotion awakened in Europe. In the north this had burst the old bonds and become Reformation. But in the south it was generally, though by no means universally, content to flow in the channel of the Roman obedience. The chief exemplification of this trained enthusiasm was the soldiery or "company" of Jesus, originated by a small number of ardent young men in Spain and Paris. With a view to influence the age, this society proposed to enrol members free from all encumbering restraints, and trained at the same time in the use of all means and accomplishments, the sole restriction being absolute obedience to the direction of the superior.[1] The pope at once met this idea by liberating the new society from all ecclesiastical superiors except himself and its own officials, and from all regulations except its own. Even at the Council of Trent the theologians of this order did much to determine the members against conciliatory proposals. And after and outside it they threw themselves into every effort throughout Europe for invigorating and extending the Church. But persuasive effort was not all. In 1542 the Inquisition was reinstituted, in response to

[1] A work of genius of our time, *John Inglesant*, sketches the process through which in the seventeenth century even a raw English boy could be moulded into a mood of heroic self-surrender, which made motives such as the love of life and the obligations of veracity alike matters of indifference.

a memorial pressed by Caraffa, and supported by Loyola. Every Catholic country was now submitted to a minute and sifting persecution, from which there was no appeal. In Protestant lands the right and duty of private judgment in religious matters, often in practice crippled by the Church and crushed by the State, could yet be appealed to as a fundamental principle. In Catholic countries authority was absolute. Accordingly, while in the south of Europe and of Germany heresy was effectually stamped out, the persecution of individuals which also existed on the Protestant side was comparatively feeble and intermittent. In Germany, especially, other causes combined with these to stop the advance of the Reformation long before the close of the century. One of the most important was the attitude of princes, foreign as well as native. Continental Protestants naturally looked to the English monarch to be their leader. But Elizabeth was, as John Knox described her, "neither good Protestant nor yet resolute Papist," and her endless feminine vacillation tormented all who trusted her at home and abroad. James I., with a more cultivated intelligence, lacked the strong instinct and will which made his predecessor a great ruler; and while his egotistical projects of comprehensive union among Protestants, and even between Protestants and Catholics, came to nothing, he was too time-serving and procrastinating to do anything for Germany, or even for his daughter's husband in the Palatinate. But the relation of the German Protestants to their own princes was more serious still. The maxim, "The ruler of the region is the ruler of the religion," was worked so as to exterminate the profession of the Reformation by subjects of Catholic princes in Austria and Bavaria, and in the south generally. On the other hand, the Protestant princes, divided by feudal sympathies from the people, and by religious sympathies from the empire, were divided among themselves into Lutheran and Calvinist, each generally refusing to protect or even to tolerate the other persuasion in his dominions. The result was that in the Thirty Years War, commencing in 1618, Bohemia and Moravia were

restored to the Catholic league by force of arms, and the north of Germany was only saved from conquest by the friendship of France and the interposition of Gustavus Adolphus. Still, the **Peace of Westphalia**, which in **A.D. 1648** gave rest to the centre of Europe, was an advance upon that of Augsburg in 1555 as well as a confirmation of its principles. Each secular state in Germany was henceforth free to profess its existing religion, whether Catholic, Lutheran, or Reformed; but no other religion was to be "received or tolerated in the Holy Roman Empire," and the power of the reigning princes to "reform" their states by driving out dissenters was restrained rather than abolished.

While these external causes contributed to the arrest of Protestantism, there were corresponding internal ones. Founded itself on private judgment, its representatives in the first age forgot to make provision for the new generation exercising the right of free inquiry with the same freedom which they had themselves done. The dangers of such free inquiry had indeed become more prominent, and the advantages as well as the duty of it were now forgotten or denied. How far the lapse from a principle so vital to the Reformation, even in matters internal to the Church, was due to its external relations to the State, is difficult now to determine. The tendency of majorities to insist that minorities shall conform to them in opinion, belongs to human nature, and works in the Church as it works outside. But the first conception of Protestanism, that of an "invisible Church" of men in all lands, gave no foothold to the tyranny of majorities. And the institution of particular congregations, while it suggested such a possible result locally, suggested also an easy means of escape from it. It was the falling of the Church into the new mould of nationalism,—a mould not prepared by Protestantism, but prepared for it during the three hundred years preceding its advent,—that at once raised for it the question of toleration, and ensured practically that the question should be wrongly decided. For the national Church was now often an

artificial or geographical unity. It was not necessarily defined by limits of language or race or manners, but always by the limits of territory of some civil ruler. And the gathering of his Protestant subjects into one church was in those days often founded upon, and was always connected with, its relation to him. It instantly raised the question of his duty to recognise or to tolerate the Church, and those outside it. The question of the magistrate's toleration thus lay at the threshold of actual Protestantism. And the answer to it, as we have seen, was universally the false answer. Now, as before, it was held that it was his duty not to tolerate any Church except the one which he selected for recognition, and not to tolerate any opinion in religion except the true opinion, or any worship in the Church except the right worship. There can be no doubt that the execution of Servetus at Geneva was largely due to the natural dread lest Protestantism should be held to be based upon absolute civil freedom of inquiry; and it was followed by a controversy in which Beza maintained (against Italian exiles, such as Castalio and Aconcio), that the punishment of death was due from the magistrate to false doctrines on the Trinity. The opinions to which these Italian thinkers leaned (Socinus and his nephew being the most important among them) had always been held to be contrary to the Church's creed. Yet had full freedom of opinion been now granted by the Protestant civil powers, there was a chance that in the healthful process of inquiry these eccentricities might all have been gradually absorbed into the new thought and life of the Church. As it was, the speculators who remained outside (and who, gathering together, especially in Poland, formed a Church as early as 1565, with an influential academy), had the honour as a persecuted minority to be among the earliest—though, as Beza admits, they were not even then the only—advocates of toleration.

Nor did Protestantism, which thus neglected the opportunity of reclaiming dissenters from the older creeds, make sufficient provision for the various opinions even of its own members in

building up its new confessions of faith. The sudden access of the human mind to the Scriptures (no longer forbidden and now translated into the common tongues), had produced in every land simultaneously a passionate study of the highest truth, not only in its details, but as a whole, and as capable of being built into system. These systems, as put forward by private inquiries, preachers, or theologians, were soon succeeded in almost every Protestant country, by confessions of the faith held in common, or Creeds. They arose in each land independently, but of course they bear the mark of the one world-wide impulse from which they sprung. Used partly as catechisms or text-books, partly as standards for regulating church teaching, they were most frequently called into existence to meet misrepresentations by accusers or persecutors as to what Protestant doctrine really was. Even when thus prepared hurriedly and for a purpose, each of them was originally an achievement in theology, and a gain of real consolidation and unity for the Church which it represented. But upon the original gain there followed, less observably, a certain loss. These Protestant Confessions had admittedly no authority over faith, that being reserved for Scripture ; some of them, like the Scottish Confession of John Knox, prayed men of their charity to point out to the authors anything in it that seemed opposed to the Word, that it might be reconsidered ; and others, like the French Confession, were read yearly at the church assemblies, that proposed changes might be carefully discussed. But another question, more important for the Protestant Church than even the truth of the confession in all its details, was by that Church neglected. It was the question whether, assuming its details to be true and scriptural, the majority who thought so had a right to bind them upon the minority or upon individuals who thought otherwise.[1] The failure to raise this

[1] The late Dr. William Cunningham of Edinburgh, when writing of the Reformers, and pointing out the difference between the duty of individuals and of Churches,—the duty of individuals being to confess all truth which they can attain, but that of the Church, in settling her confessions and

question at first was perhaps natural in men who had presented their confession to the magistrate as the truth, and had declared it to be his duty to support the truth and extirpate error. But it was all the less excusable and the more unfortunate. For within their own Church there were individuals who had not attained to all parts of that truth, or who objected to the human order and system into which the parts were built ; while the new generation could only start from the same ground of free inquiry which their parents had vindicated against Rome. For this state of matters no provision was made ; if, indeed, under the accepted theory of the Church and State relation, much provision was possible.

The result was seen in the States of Holland, which, with their great and famous universities, were in the close of the sixteenth century rapidly becoming the centre of Protestantism. And it was Protestantism of the Reformed and Presbyterian type, but with the State behind it. Accordingly, after the death of Arminius in 1609, when his followers presented their *Remonstrance* to the States, their earliest contention was that they should have liberty to teach their doctrine within the Church. Only when they found that the Church itself was sure not to concede them a place within, and that the magistrates would not enforce their claim to it, did they apply themselves to demand, from the same magistrates, a toleration outside. In all ages, the first instinct of the magistrate has been to promote peace, and on this occasion the chief men of Holland not only urged mutual forbearance, but published an edict forbidding the continuance of controversy. This was undoubtedly going too far the other way ; and the whole question of the autonomy of the Church, and the counter theory of the right of the magistrate to restrain it, was, as we shall see, brought into discussion. The contention was rising to the pitch of revolution, when the

terms of communion, being to consider "what *amount* of unity in matters of opinion ought to be required," and to confess only what is necessary, leaving *in non necessariis libertas*,—points out also that "the principles applicable to this branch of the Church's duty have never been subjected to a thorough discussion by competent parties."

sudden secession of Maurice the Stadtholder to the popular or Calvinistic side, crushed the hopes of the Remonstrants and of their famous leader Grotius. He escaped from his imprisonment, but one of the chief and best men of the republic, his friend Oldenbarnevelt, died upon the scaffold. In the midst of these unfavourable heats it was that the Church met in the Synod of Dort in 1618 to decide the doctrinal question. The Arminian divines, not being permitted to discuss the question in the order they proposed, refused to continue the debate, and in their absence not only was their doctrine condemned as false, but they were deprived of their ministerial functions. In that age such an exclusion from the Church was invariably accompanied by civil injury; and the magistrates, finding that some of the Arminians still attempted to minister to their sympathizers, forbade them all to preach in their native country, under pain of banishment from it.

This controversy, the circumference of which extended far beyond Holland, was one of several events which tended to raise the question of the true theory of Church and State. That question had not been discussed on broad and general grounds since the last great conflict between the papacy and the empire in the fourteenth century. The Reformers, under the pressure of persecution from both those powers, had settled it rather hastily from supposed scriptural precedents. The same method of reasoning was taken in that theological age even by the few who dissented from them, notably by **Erastus**, who was court physician at Heidelberg till 1580. His view was, that there is no warrant in Scripture for excommunication by the Church from its own society, and that sins by members of it should instead be punished by the magistrate, "for that is his duty and office." This view, of course, suggested (though it did not quite imply) that denial of the whole self-government of the Church which has often in later times borrowed Erastus' name. But now, with the opening of the seventeenth century, there was to begin a more or less continuous inquiry, not yet terminated, into the

nature and extent of the office of the civil magistrate, — an inquiry conducted not so much on theological as on philosophical grounds.

Hugo Grotius published in 1625 his inquiry into the *Law of War and Peace*,—that is, into the universal law which regulates all men in their mutual relations,—and the book made an epoch in European thought and legislation. It did so by drawing men back to the principles which lie under universal human institutions, as distinguished from those which rule only in a particular territory; and among these are the Church and the State. Unfortunately he had already, as we have seen, come into collision with the intolerant majority of a popular Church, and during his subsequent residence in France and England was in the mid-stream of a reaction which led him at last almost, if not, as Hallam says, altogether, to submit for the sake of peace to the demands of Rome. Grotius' treatise *On the Authority of the Supreme Power* about *Things Sacred*,[1] was published after his death in 1645; but is said to have been written thirty years before, soon after he had drafted the edict by which the Dutch magistrates imposed silence on their pulpits as to the controverted doctrines. His theory is, that it is not the business of the State itself to exercise sacred functions (to act *in sacris*), but as being supreme, even *circa sacra*, to command and to ensure their exercise of such functions by those whose duty it is to deal with them. Thus the State may abolish false religions and punish their professors (though it should not do so capitally); may establish a State Church, and legislate for its whole organization; may call or not call synods, and determine who shall compose them, and accept or not accept their doctrinal decisions; may grant to the Church powers of legislation and jurisdiction, in so far as shall seem right (for of itself the Church has only a persuasive, and not a coercive or even authoritative power); may regulate and annul the election of pastors, and, if need be, take

[1] *De Imperio Summarum potestatum Circa Sacra*. First Edition published at Paris, 1646.

it into its own hands; and in every case must retain an appellate jurisdiction over the "power of the keys."

The views of Grotius have an easily traceable resemblance to those of the lawyers who defended the empire by attacking the Church in the days of Lewis of Bavaria (see p. 98); and they are perhaps all dependent on Aristotle's pre-Christian theory, that the State is the "supreme society." But they had great and deserved influence in that age with the reading public, and especially with the lawyers, of every country of Europe. Extreme as the power which they give to the State may seem to us, other men of genius in that age went farther. The illustrious countryman of Grotius, Benedict de Spinoza, published in 1670 his anonymous *Theologico-Political Tractates*, the main argument of which is to urge toleration of opinion and "liberty of philosophizing." Yet even here he has a chapter devoted to showing that "authority about sacred things should be wholly in the supreme power of the State, and that if we wish rightly to obey God we should conform our outward worship with a view to the peace of the republic." In it he goes so far as to hold, chap. xix. sect. 49, that Church law (*jus divinum*) absolutely depends on the decree of the State, which is its interpreter as well as champion, and that those are therefore the true ministers of God's word who teach the people "a piety accommodated by the decree of the State to public utility." Nor can this have been uttered chiefly with the view of conciliating the authorities to his own extreme rationalism. For, on his death in 1677, a MS. *Political Tractate* was found, which deals with the extent of the "authority of the supreme power" over the individual. In it he arrives at nearly the same theory as Hobbes had published in English. He urges that men are naturally fearful of and hostile to each other, but that they gather into society for the supreme reason of safety. And when they do so they transfer their individual rights to the State to such an extent, that the individual "now belongs not to himself, but to the State,[1] and is bound to obey its orders, having

[1] "Non sui, sed civitatis, juris est."

no longer the right to decide for himself what is just or unjust, pious or impious." But does not this theory destroy religion? Spinoza answers (chap. iii. sect. 10), No; and his reasons are intensely characteristic of the most speculative of European thinkers. "The *mind* of the individual belongs to himself, not to the State," and within he is free, and can cherish the knowledge and love of God privately. The question of outward worship is different. Whether I worship with others or not is not so important to me as peace and public tranquillity. I am not religion's champion. "Wherever I am, I can worship God and cultivate religion in my heart, and can look after my own conduct; and that is the business of the private citizen. The care of spreading that religion is to be handed over to God and to the supreme powers, for to them alone it belongs to care for the community!" Hobbes' *Leviathan*, published in 1651, is explained on the title-page as meaning the "Commonwealth Ecclesiastical and Civil," and his rude and constraining common sense leads him to the same conclusions with the subtle thinker of Amsterdam. Not only does he hold on the subject of toleration, that a Church or other "body without warrant from the sovereign is unlawful," but there is absolutely no limit to the obedience due by the individual subject. The sovereign, therefore, if Christian, is "supreme pastor" and head of the Church, so that he can baptize or teach by himself or others. If heathen, he has an equal power, and his subjects the same duty. "Faith is internal and invisible," and what even "if we be commanded by our lawful prince to say with our tongue that we believe not?" "Profession with the tongue," he answers, "is an external thing, and no more than any other whereby we signify our obedience." Consequently "that action is not his, but his sovereign's." These positions were destined to excite deep distaste in England, as Spinoza's did in foreign lands drenched with recent martyrdoms. But Hobbes turns upon his opponents with the question, whether, in the case of a Mahometan ordered by his lawful prince to take part in Christian service, they would not hold him bound to do

so? "And the law of nature, which is the indubitable, everlasting law of God, is, Do not to another what thou wouldest not that he should do unto thee!"

By the close of the seventeenth century the religious temperature of Europe was greatly lowered, and in Germany in particular the desire for toleration of all opinions became the chief passion, especially with the great school of lawyers which was led by Thomasius. He had brought out with much power (following Leibnitz) the distinction between what is in its own nature matter of law, and therefore enforceable, and what is moral or religious merely, and, as belonging to the conscience, should not be meddled with by law. But the Church was still connected with the State, and had by this time hardened into confessional orthodoxy; and the course of safety for outsiders who wished freedom, still seemed to be to depress its power. Accordingly, the system of *Territorialism*, of which Bœhmer's *Ecclesiastical Law* (A.D. 1720) is the great repository, for the first time set up on the Continent the formal principle of the supremacy of the civil ruler, not in sacred things, but *circa sacra*—a supremacy therefore rather in matters ecclesiastical. This was applied in detail, so as to paralyze independent action in the departments of the Church, and of course all attempt at self-government. Not only the Lutheran but the Reformed Churches were organized in Prussia under crown-appointed consistories and commissions, and the contests which had divided and wrecked the cause of Protestantism were succeeded by a general apathy on all matters of faith. Pietism existed, but (with some exceptions, as in the case of Spener, who wished to organize the religious work of the laity) its inorganic individualism fell in well enough with the government system of administrative depression of the Church. All private views were tolerated until they became powerful or proselytist, and they were repressed when the State judged it expedient in the public interest.

Farther east, the Church of Russia had always been absolutely a State Church. In the year 1700 its patriarch Adrian died, and

Peter the Great declined to appoint another, transferring at the same time from the patriarchal to the civil courts such matters as inheritances and wills. He now took possession, for the empire, of the estates which had formerly sustained the ecclesiastics and the cloisters, granting out of them limited salaries to bishops, monks, and nuns, and applying the remainder to pension soldiers and hospitals. On 25th January **1721**, the Czar took a still more important step. He issued an edict abolishing the patriarchate, that being "too weighty a charge for any single person to whom the supreme power is not hereditary." And, "after the example of former religious kings, recited in the Old and New Testament, We, Peter the First, having taken upon us the care of the regulation of the clergy and spiritual order, and not seeing any better way for it than a regulation by a synod," appointed the synod accordingly. It still governs or administers Church matters; but it was instituted to do so according to a detailed regulation embodied in the Czar's edict, a regulation which its author declares to be founded on Scripture, the Fathers, and "the civil laws conformable to the word of God." The synod may add to or vary the regulation, but "not without our consent;" and each of its members swears that the emperor, who appoints him, is "the supreme judge of this spiritual college."

During the period that the territorial Church of Germany was falling under the subjection of the State, the territorial Church of **France** was making terms with the State, on the footing of both asserting a certain independence of the pope. This phenomenon in history is known as **Gallicanism**, and it was an inheritance from the position maintained by it and other countries before the Reformation. France had maintained this attitude, especially in the time of Philip the Fair and at the Councils of Constance and Basle (pp. 85, 104). It was naturally more pronounced when Henry IV. became a Catholic, but with the view of unifying the nation and giving a certain toleration to Protestants. In **A.D. 1594**, a treatise by Pithou, a celebrated jurist, entitled "The Liberties of the Gallican Church," was presented to Henry, and

hailed as the "palladium of France." It starts from the fundamental maxim that the State and its king are *in temporal matters* sovereign and independent of the Church and of its chief in Rome. This had been admitted by the Church in all ages before Hildebrand, and not subsequently in express terms denied. The counter proposition, that the Church is independent *in spiritual matters*, was theoretically held by the French Church. The "co-ordinate jurisdiction" of the two bodies thence resulting, each in its own sphere, was now maintained by its theologians, as, for example, by Richer in 1611 in his book *On the Ecclesiastical and the Political Powers.*[1] Among the lawyers, however, there was a leaning to the view of their imperialist predecessors, that the civil power had a certain supremacy even in or about matters spiritual. And the Churchmen, pressed by the double bribe from the Crown, of privilege within France over other religionists, and of protection outside it against Rome, allowed the king and his courts rights in detail by no means consistent with their general principle.[2] In Henry Quatre's time, however (notwithstanding the successes throughout Europe of the Jesuits and the Curia,

[1] An important book of a later age, De Marca's *De Concordia Sacerdotii et Imperii*, was written at the request of Richelieu.

[2] One of the chief means of defence against excesses of the Church in France has always been, the appeal to the courts against the decisions or acts of its officials, *comme d'abus*, as it is called. The mere fact that these decisions are wrong, does not warrant an appeal except to the highest ecclesiastical authority. The appeal to the Crown arises only when there is *abuse;* by which is meant, when the ecclesiastical judge has exceeded his power, or attacked the secular jurisdiction, or decided something against Church or civil liberties. In such a case, the man wronged by abuse of the legitimate ecclesiastical jurisdiction, can appeal to the Crown courts,—now to the *Conseil d'Etat.* Such cases should, of course, be rare; and in the eightieth head of the "Liberties," it is expressly provided that the right of appeal is reciprocal to the Church,—that is, a man aggrieved by the magistrate on his side exceeding his power, can appeal, not to the Church, but on its behalf to the higher Crown court. This so-called reciprocity, however, was not exercised; while the Appeal, which had been intended to be an extraordinary remedy for great offences, came to be used very frequently and vexatiously by men dissatisfied with the ordinary detail of priestly tribunals, then powerful, but now largely abolished.

and the St. Bartholomew massacre by their partisans in 1572), the union of the French Crown and clergy was victorious. In one point the Gallican Church and Rome were agreed: both opposed the toleration of Protestantism given in 1589 by Henry's Edict of Nantes. Yet for a hundred years the great statesmen who were raising France to pre-eminence in Europe, declined wholly to abolish it; till in the reign of the magnificent Louis XIV. the Crown seemed strong enough to venture on a double stroke. In 1682, the *Declaration of the Clergy*, prepared and afterwards defended[1] by the celebrated Bossuet, declared in four articles, approved by the Crown, that the Holy Seat cannot meddle with temporal matters or depose sovereigns, that its power was still limited throughout the Church by the decisions of Constance, and in France by the Gallican traditions, and that its decrees even in matters of faith are not "irreformable" until they are confirmed by the Church. Three years after, in 1685, the Edict of Nantes was revoked, and every Protestant who did not conform to the national Church subjected to cruel penalties. The declaration by the Gallican clergy was keenly resented by the pope, who was already in conflict with the king about the *regale* (which in France included the right of the Crown not only to enjoy the temporalities, but to exercise the patronage of vacant sees). By the year 1693, however, the dispute was settled in the unfortunate way for which the concordat of 1516 had given a precedent, the pope and king agreeing together, and the rights of the Church and people being subordinated to both. The pope now instituted the bishops appointed by the king, but he insisted on their sending letters of apology, amounting almost to retractation, for the declaration of 1682. The principles of Gallicanism, however, including a certain practical subordination of the Church to the State, spread in the eighteenth century into adjacent Catholic countries. Van Espen, the canonist of Louvain, taught them at that university. His pupil, Von Hontheim, Bishop of Trèves, under the name of Febronius, published against the papal power

[1] Bossuet's *Defence of the Declaration of the Gallican Church.*

in 1763. And even in Austria, all through the reign of Maria Theresa, Catholic canonists taught a territorial supremacy of the State similar to that maintained by the Protestant lawyers of Germany. Meantime the social system in France had begun to glide smoothly towards revolution. Ecclesiastical causes contributed. The beginning of the eighteenth century, the most brilliant period of the Gallican Church, was troubled by the Quietist and Jansenist controversies; and the possibility of wholesome results from these was frustrated by the incessant intrigues on either side to secure the support of Rome or of the king. Bossuet and Fénélon were among its prelates; but the magnanimous orator covered with his applause the royal author of the terrible *dragonnades*, and the saintly archbishop, when dismissed from court as a fanatic, appealed, not to the ancient General Assembly of the Clergy of France, but to the Holy See and its counsellors of the Society of Jesus. The result was seen in the next generation, when (A.D. 1721) a man like Dubois, in whom it was well known that "all the vices strove for mastery," could yet sit in the archiepiscopal seat of Fénélon with Massillon's acquiescence, and from that position rule the Church and State of France in the interest of a pope who had purchased from him his own election to the Holy See by the written promise of a cardinal's hat. The ancient belief in an independent French Church was by this time chiefly maintained by those of the clergy favourable to Jansenism; Jansenism and Gallicanism had been condemned by Rome, and were now obnoxious to the court; and the "Parlements" of Paris and the provinces, the last refuges of Gallican liberty, were being crushed by royal ordinances and *lettres de cachet*. The twofold despotism, civil and ecclesiastical, caused a deep reaction in the now awakening mind of the people. There was perhaps some truth in the comment of the Bishop of Autun in 1755 on the advancing irreligion of the time: "We cannot hide from ourselves that it is through the conflict between two powers which were designed to act in concert, and not to destroy each other, that unbelief triumphs."

But the union in intolerance of the two powers, which was still maintained by the law of France, caused far more popular indignation against the Church than the occasional collisions between them,—collisions which that too close union necessitated and excused. It was long after this (in 1762) that the judicial murder of the Protestant merchant Calas roused the immortal vindictiveness of Voltaire. But already, in the middle of the century, the Church was aware that it had lost its hold on the conscience and heart of the people. Unfortunately it clung all the closer to its feudal and royal patrons. An assembly of the clergy, held in this same year, 1755, complained to the king that scepticism filled the sun and air like smoke, and spread over the whole kingdom. The distinctions between virtue and vice, it asserted, were confounded, and the mysteries of religion were criticised with impunity. And in addition, "men speculate, with an amount of hardihood unparalleled under the French monarchy, upon the origin of sovereign power, and the mode in which it should be exercised. That wholesome doctrine which sees in royalty the ineffaceable impress of the divine majesty, is altogether ignored." It was all true. And every year, during the generation that followed, it became more true, till the slow revolt of conscience against both Church and State ended in sudden revolution.

## CHAPTER IX.

### BRITAIN, FROM THE REFORMATION TO 1689.

THE great landmark after the Reformation in continental Europe, in Church and State matters as in others, is the Revolution, which may be dated from its outbreak in France in 1789. But Britain had its earlier Revolution in 1689, following upon William's invasion of 1688 ; and as it happens, it also is a landmark in the history of our question. No doubt the discussion of the theory of Church and State has been continuous in this country from the Reformation to the present day, and so has its evolution in our history. But the Revolution made a certain break in both. Before 1689, what were chiefly in question were the relations of the Church to the king. Since 1689 it has been rather the relations of the Church to Parliament. We deal first with the former period, extending to the fall of the Stuarts.

Elizabeth's domestic administration was intolerant, but her power when resisted by her people was supported by the pressure upon them of a more dangerous intolerance from abroad. The right, even of a nation, to choose its own religion was not yet conceded, and the title of the daughter of Anne Boleyn was naturally refused recognition by the pope. Her first statutes were no doubt also such as to evoke Catholic animosity. By the Act of Supremacy, all officials, civil and ecclesiastical, were to renounce the spiritual as well as temporal jurisdiction of every foreign prince or prelate. By the Act of Uniformity, the use by any minister of any but the established liturgy was forbidden

under penalties, and all laymen who absented themselves from the parish church were to be fined one shilling. Yet this statutory intolerance, positive and negative, was not severely carried out till the latter part of this queen's reign, when many priests were executed on charges of treason or denying the supremacy. Elizabeth cared much for her own power, and little for the Protestant or any faith ; and if by a marriage alliance or otherwise she could have securely established her dynasty, she would willingly have compromised with Rome. As it happened, her coquettish but persistent celibacy, and her knowledge of the strong title of the Catholic Queen of Scots to succeed if not to supersede her in the English throne, kept her in line with the feelings of most of her subjects. Her life was at no time safe from conspiracy, and Papal Bulls of excommunication and deposition were followed by an assault from the whole power of Spain in the Armada (A.D. 1588). In this crisis, however, the English Catholics remained loyal to their country ; the national danger led to a universal outburst of patriotism ; and the queen, almost against her wish, was henceforward recognised as the greatest representative of Protestantism.

Elizabeth had a more delicate if not more difficult task on the internal side of her Church relations. The Protestant faith in England was mainly Calvinistic ; and, here as on the Continent, it was accompanied by a passionate tendency to revert to what were now proclaimed as the simple and primitive forms of Church organization and worship. With this tendency her Parliament strongly sympathised ; but the Queen herself was absolutely hostile, while, even outside the persistently Catholic portion of her subjects, a great part of England was but nominally Protestant. What occurs to us in modern times as the path of safety in such circumstances is, of course, the withdrawal of the Act of Uniformity and of all interference with religion by the Crown. Even in that age the permission to Papist, Puritan, and Anglican to exercise each his own worship, and to persuade his neighbour into the better form of practice and belief, would

apparently have diminished instead of increasing the discontents of the kingdom, and would have surrounded the already absolute queen with a barricade of enthusiastic loyalty. But no party, least of all the queen, was prepared to leave all views free to express themselves. On the other hand, to enforce extreme views on either side would, she felt, be dangerous for the State. She adhered to the middle worship of a half-Protestantized people, and to this she demanded a universal external conformity, —a course which, she characteristically urged, "left opinion free." Her subjects, in so far as they had beliefs about such matters at all, believed that worship was worthless which was contrary to the opinion of the worshipper. Most of them, however, would have been content with indulgence to individual or congregational scruples. But Thomas Cartwright, as professor of divinity at Cambridge, began about A.D. 1570 to urge reverting to the Presbyterian or Hebrew simplicity of church government, as both the right and the duty of the Church. And he, like his successors of the same school, urged also that it was the duty of the State to enforce this, by forbidding all additions to the primitive form. The only controversialists who held the modern doctrines of toleration, were the Brownists and Barrowists, so called from their founders, whose position was like that afterwards known as "Independent." Barrow and some others were executed as seditious or treasonable, the chief pretext for the charge being that they attacked the whole ecclesiastical system with its supremacy of the Crown; and many of their followers were driven into banishment to Holland. Yet even among those who clung to a national religion, the discontent with the present form grew and spread. But all they could hope for now was freedom from an enforced uniformity on particular points of conscience. The clergy and bishops, like the Parliament, were originally rather disposed to be Puritan. But by this time the constitution which made the bishops dependent on the Crown had begun to take effect. Elizabeth, who for five years had suspended one tenant of the See of Canterbury for declining to

be the instrument of her despotism, replaced him in A.D. 1583 by Whitgift, Cartwright's original opponent in controversy. To this archbishop and others were now committed the tyrannical ecclesiastical powers of the royal commission (p. 149); and they were exercised to the end of the reign in a way which Bacon deprecated, and which even Burleigh complained of as inquisitorial and oppressive. A new statute exposed the more persistent nonconformists to banishment or death. Day by day the great queen sowed the seeds which her Stuart successors were to reap. No open or organized protest was possible, but under the name of "Martin Marprelate" anonymous pamphlets were circulated through the kingdom, anticipating, in racy bitterness, the writings of Swift or Defoe. During all this reign, indeed, there was a general feeling among serious men that reason as well as religion were on the Puritan side, and that authority stood alone on the other. Only towards its close was a man found whose nobility of intellect and character enabled him to attempt a foundation in reason for an institution whose origin in recent history appeared so arbitrary and violent.

**Hooker's Ecclesiastical Polity,** published partially in 1594, and in full after his death in 1600, is substantially a defence of the Church of England against the Puritan and Calvinistic view, that nothing is lawful in the Church unless it has scriptural authority. Hooker rejects this view, and does so not merely on the ground that it represents Scripture as a code of rules, rather than a magazine of principles. He sets himself to seek for the source and origin of law, and occupies his first book with a magnificent demonstration of its universality as founded in the nature of God and the reason of man, and thus permeating and regulating all societies and institutions, antecedently to the revelation which Scripture superadds. In the Church, therefore, as in other societies, he points out, a multitude of things have to be settled simply by the law of right reason, and church traditions and order may, as the 34th Article declares, be changed from time to time by competent authority. Accordingly, while he holds that

Episcopacy and other ordinances are in point of fact apostolic, and recorded in Scripture, he holds, in point of principle, that no church form is unchangeable. Assuming this to be true, it is plain that Hooker's position was a full defence of the existing church institutions only in the event of their being wisely introduced by the proper authority, thus left unfettered by Scripture. But what, according to Hooker, is the proper authority for institutions in the State or the Church? As to the theory of the State, Mr. Hallam points out that Hooker, following Aristotle and Aquinas, derives the origin of government, both in fact and in law, from "the assent of them who are to be governed." "Laws they are not which public approbation hath not made so." "Against all equity it were, that a man should suffer detriment at the hands of men for not observing that which he never did, either by himself or others, mediately or immediately, agree unto." And thus the English monarchy is one limited by law; for "the whole body politic maketh laws, which laws give power unto the king," that he may execute them. But it has not been so often observed that his views of the original source of church authority also are parallel, and are in accordance with those of his Presbyterian and Puritan opponents. "A church and a commonwealth, we grant, are things in nature the one distinguished from the other. A church is one way, and a commonwealth another way, defined" (Book viii. sect. 2). Thus in the days of the apostles there were two "corporations," the mass of men professing Christ, on the one hand, and the Roman commonwealth, on the other. "We grant that the commonwealth of Rome was one society, and the Church of Rome another, in such sort that there was between them no mutual dependency." And the Church, when independent, was of course self-governing. But at this historical point comes in Hooker's peculiar theory of establishment. "When whole Rome became Christian, when they all embraced the gospel, and made laws in the defence thereof," —a unanimity which of course never historically existed,—then, he holds, the two corporations not only coincided in their member-

ship, but became one, so as apparently to lose the power of either reclaiming its original rights. And on the same rather narrow grounds he bases the supremacy of the Crown over his own Church, "seeing that there is not a man of the Church of England but the same man is also a member of the commonwealth; nor any man a member of the commonwealth which is not also of the Church of England." This state of fact, again, if it ever existed in England, has long since ceased; and Hooker's theory of identification of Church and State has not been generally held. The strength of his position on this subject was not in his own theory, so much as in the concession to him by his opponents, that the State as well as the Church is a political society for the purpose of maintaining religion, and in the mild and tolerant use he individually was disposed to make of so perilous a view. Hooker's real contribution to his country's progress was that rich atmosphere of conservative reason which, throughout his work, anticipates, in defence of English anomalies, the great argument of Edmund Burke—that in order to attain equity it is not necessary, or even permissible, to break with the past, and that law, if it is to be just, must recognise the complexity of existing fact, rather than build upon any symmetry of ideal. The great mass of Englishmen acquiesced in the Church and State system into which they had drifted; and it was now possible to represent this as an acquiescence in the common reason of the universe, informing and guiding in detail all its structures, agencies, and societies,—a view of law in general which, through Hooker chiefly, has become the inheritance of English statesmanship and thought. With Hooker, too, there enters within the pale of the early English Church that untheological passion for learning and science, into which the world outside had been growing for a hundred years at least before the Reformation came and concentrated all thoughts upon religion. "The spacious times of great Elizabeth" had room for this also, and indeed for everything. The greatness of its chief representative, Shakespeare, is immeasurable, very much because it is so impersonal and impartial. A name almost

equally great, that of Lord Bacon, reminds us of the central part which England now took in the outrush of man's investigating mind upon the external universe. The scientific passion, like that for exploration and commerce, had already begun to work indirectly in favour of toleration. Bacon's own temperament was cool, and his intellect many-sided, and when that great thinker became a statesman, he did what he could to reconcile extreme views, and to suggest the comprehension of various church practices under the supremacy which he too obsequiously served. Unfortunately the new king, to whom his cautious representations[1] were made, was scarcely more disposed than Elizabeth to use that supremacy for the liberation of consciences.

James I., when he succeeded to the throne of England in 1603, brought from his kingdom of Scotland forty years' experience of the problem of Church and State. For, as Mr. Hallam remarks, "from the Reformation the history of Scotland assumes a character to which there is no parallel in modern ages." It mirrored indeed, rather, in small national dimensions, what had been the problem of mediæval Europe, but in Scotland it "became a contest between the temporal and spiritual authorities, the Crown and the Church, that in general supported by the Legislature, this sustained by the voice of the people." It was largely so because in Scotland there was also a Church Legislature, composed of representative presbyters, lay and clerical, gathered annually together into a General Assembly, through which the voice of the people, or of a large majority of it, was heard. The Assembly had adopted, in 1560, the "First Book of Discipline," as regulating the proposed order of the national Church; but the Privy Council declined to sanction it, and even after there was a Parliamentary recognition of the Reformed Church in 1567, the bishops retained their seats in Parliament, and drew their revenues, most part of which, however, went by private compact to members of the nobility. The Convention of the Church in Leith, in 1572, sanc-

[1] "*Certain Considerations on the Church of England,* dedicated to his Majesty," and other pieces.

tioned the interim continuance of these bishops, but made them (like the superintendents appointed soon after the Reformation) subject to the Assembly. The whole episcopate, however, was an unmeaning excrescence, except for the purposes of the Crown and nobility. Accordingly, about the same time that the Assembly, in 1581, procured the signature of the king and his court to the First **Covenant**, or "King's Confession," and drew up and approved its own "Second Book of Discipline," it resolved that the office of bishop should not continue, and required those holding it to resign. One of them, Montgomery, refused, and the result was a collision, in which the Assembly, as representing the Church, insisted upon its right to regulate church matters, on the grounds of mutual independence or "co-ordinate jurisdiction" of Church and State which that book clearly lays down. This bold claim was emphasized by the free criticism with which men like Andrew Melville, in the pulpit and out of it, discussed the policy and actions of the Crown whenever they seemed to affect the interests of religion. The advisers of James (who was now nearly twenty years old, and had already revolted from the constitutional maxims of his early tutor) met this by the Acts of 1584, one of which (afterwards partially repealed) "confirmed the royal authority over all estates, as well spiritual as temporal," while another forbade "all judgments and jurisdictions, spiritual or temporal, which are not approved by his Highness," and a third constituted "the ordinary bishop of the diocese, or others, the king's commissioners," judges in ecclesiastical causes. By the year 1592, however, public events, especially the attack of the Armada, had moved men in the other direction, and the first Act of the Parliament of that year annulled generally all Acts against the liberty of the Kirk, and particularly the commission to bishops of 1584, and sanctioned Church rule by its own assemblies and presbyteries, "with the whole jurisdiction and discipline of the Kirk agreed upon by his Majesty in conference with certain of the ministers." Whether by this Act the State granted a certain jurisdiction which it had power afterwards to extend or limit, or whether it merely

acknowledged what had been granted to the Church already by its members or by a higher power, became in modern times a famous question. In the meantime, the special immunities which it gave to Presbytery were not long preserved; for in 1597 an Act of the Scots Parliament provided that such ministers as the king should make prelates, should sit in Parliament; and in 1600 the Assembly was persuaded to meet this by authorizing the Church to be represented in Parliament by certain ministers to be selected by the king. But it was not till 1606, after James had gone to London, that the bishops thus chosen were made "constant moderators," and not till 1610 were they admitted to powers of episcopal ordination and visitation, the latter always very timidly exercised.

The effect of this struggle upon James was to make him hail with delight his accession to what he held to be the absolute monarchy of England, with its surroundings of episcopacy. He was a man of considerable culture and enlightenment, and disposed to principles of toleration, or at least to plans of comprehension, which he was willing to extend to Rome. Nothing came of this, however, the Gunpowder Plot, soon after his accession, having terrified him and irritated his people, and his prolonged and weak negotiations with Spain and France generally resulting in English failure. Consequently, while there was frequent persecution by his council of English priests, the king's constant bargaining with the Catholic powers was imputed by the Parliament, probably correctly, to a waning faith in Protestantism. Towards Puritanism his attitude was more unmistakeable. At the Hampton Conference in 1604, upon a suggestion from Dr. Reynolds, that disputed points as to the "prophesyings" or religious conferences which they desired should be referred to "the bishop with his presbyters," James exploded. He told them they wanted a Scottish presbytery, which "agreeth as well with monarchy as God and the devil." And as they left the room he confided to the bishops, "I shall make them conform themselves, or I will harry them out of the land." New canons

were this year passed by Convocation, under the guidance of Archbishop Bancroft ; and next year subscription to the Articles, the Prayer-book, and the royal supremacy, was demanded from all curates and lecturers. Three hundred of the clergy were thus at once ejected ; and in 1606 Convocation passed other canons in favour of passive obedience, and of an absolute power of the king, underived from the consent of his people. This uniformity and conformity, it will be remembered, was demanded from all laymen in England ; there was no liberty of dissenting or unauthorized worship. Those who declined to conform were consequently known as separatists or sectaries, and of these many thousands are said to have gone as emigrants to Holland alone during the early part of this reign. It was natural that among such recusants, and in that section of them whose principles lay most stress on individual faith as contrasted with State or even Church multitudinism, there should be found the earliest formal proclamation to England of the theory of toleration. The Declaration of Faith of the English Baptists, in Amsterdam in 1611, confesses, "The magistrate is not to meddle with religion or matters of conscience, nor compel men to this or that form of religion ; because Christ is the King and Lawgiver of the Church and conscience." This was as yet too advanced a position for their fellow-exiles, who had merely attained to the position of congregational independency. But these were sure to go farther in the future, and in the meantime they had resolved to maintain their actual freedom in a new and free world. In 1620 the *Speedwell* bore from Leyden to Southampton, and the *Mayflower* from Plymouth in Britain to Plymouth in New England, a company of men who were to be the pioneers of the Western Republic. In England, their king, whose boasted kingcraft suggested to a neighbouring monarch the description of him as "the wisest fool in Christendom," remained all his life supreme over the Church, through his favourites, noble and clerical. His Parliament was deeply discontented ; but when, in 1621, the Commons put on record that "affairs concerning the

king, State, and the defence of the realm and of the Church of England are proper subjects and matter of counsel and debate in Parliament," he erased the resolution from the journals with his own hand, and threw the leaders into prison. Had he lived longer, he would certainly have come into conflict on this subject with his people. Indeed, it was an anti-Puritanical and, as the Commons thought, an anti-Protestant book, approved by James just before his death, and with the significant title of "An Appeal to Cæsar," which occasioned the first collision between them and his successor.

Charles took for his advisers Laud in the Church and Strafford in the State,—two men who are said to have been originally brought together by the intemperate "Plea against Prelacy" of Leighton, the scourged and pilloried father of the Scottish archbishop. To Laud and Strafford "Presbyterianism in the Church and Parliamentarism in the State would seem two forms of one disease,"[1] and the cure for both was the absolute rule of the Crown, in the one case through its ministers, in the other through its bishops. By the year 1637 the battle with Parliamentarism seemed already gained. Its champion Eliot had died in the Tower; for eight years Charles had governed without a Parliament; the judges now declared, in the question of his demanding ship-money directly from the subject, that "Acts of Parliament to bind the king" are void; and Hampden and Cromwell had almost joined the stream of Englishmen who fled across the Atlantic at the rate of two thousand every year. The check came from Scotland. There, as we have seen, James had with difficulty procured the appointment of nominal bishops; but he tells himself how, when Laud twice came back to him with a "frivolous draft" intended to make "that stubborn Kirk stoop more to the English platform," the cautious king sent him away,—"He knows not the stomach of that people!" Charles knew it as little as Laud. He had already, by authority of the Scots Parliament, ordered the ministers to wear the surplice; and he

[1] *Gardiner's History*, vii. 152.

now, without even that authority, issued by royal proclamation new canons and a liturgy, intended to conform their Church to a Catholicised England. But the riot in St. Giles, when the dean opened the new prayer-book there, became a revolution throughout the north. The Covenant of **A.D. 1581**, binding king and people to the primitive faith against the excrescences of Rome, was signed everywhere, with additions of protest against the minor excrescences of England. The king, taken aback, allowed the calling of an Assembly. It met in Glasgow in **A.D. 1638**, refused to separate when dissolved by the royal commissioner, by the Church's own authority set aside the canons and liturgy and the previous Articles of Perth, and, deposing the bench of bishops, restored Presbyterianism. Next year the Scottish army, under Leslie and other soldiers of Gustavus Adolphus, crossed the border, and Charles was obliged to meet his Parliament.

The calling of the Long Parliament in **A.D. 1640**, and the sudden relief from the pressure exercised by royalty upon the consciences of Englishmen ever since the Reformation, produced a resurrection of first principles in the region of Church and State. The pamphlets alone, which were published during those years, were numbered by thousands; and it was in the very midst of this eager search for truth, and in defence of its right to remain unfettered, that **John Milton** wrote, in 1644, in his *Areopagitica*:—

"Behold now this vast city! The shop of war hath not there more anvils and hammers working, to fashion out the plates and instruments of armed justice in defence of beleaguered truth, than there be pens and heads there, sitting by their studious lamps, musing, searching, revolving new notions and ideas, wherewith to present, as with their homage and their fealty, the approaching Reformation; others as fast reading, trying all things. assenting to the force of reason and convincement. . . . Methinks I see in my mind a noble and puissant nation, rousing herself like a strong man after sleep, and shaking her invincible locks; me-

thinks I see her as an eagle, mewing her mighty youth, and kindling her undazzled eyes at the full mid-day beam."

The modern doctrine of toleration sprang at once into prominence, and became the centre of discussion. Already some went the whole length of holding that the State has no right to exert pressure upon the private conscience,—whether pressure against particular religious beliefs or in their favour, whether in the way of urging their profession or of urging their denial. Of course such a principle, unheard of even as a theory since the days of Theodosius, had no chance in the meantime of being embodied in English legislative practice. Its influence upon that age is chiefly seen in the mass of anti-toleration *brochures*, most of which endeavour to prove that the Parliament must more or less use the sword on behalf of some favoured doctrine,—unless it will take the extreme and scandalous position of tolerating all.

The Parliament of Charles was not, in the first instance, disposed even to abolish Episcopacy. All it demanded was that the bishops should no longer sit in the House of Lords, that each of them should be chairman of a council of presbyters in his own diocese, and that all "superstitions" and sacerdotal ritual should be removed from the churches. But, as the contest went on, the views of Scotland and London took hold of the English mind, and even in 1641 the House by a majority voted that English bishops should cease, while the consent of Charles to the Presbyterian Bill for their removal from the peers, was given, too late for him, in 1642. The war now broke out, and went at first heavily against the Commons. In extremity they resolved once more to appeal to Scotland, and Sir Harry Vane, to whose speculative intellect the Church and State of that age owed, in Milton's view, "the bounds of either sword,"[1] came on their behalf to Edinburgh.

[1] "To know
Both spiritual power and civil, what each means,
What severs each, thou hast learned, which few have done.
The bounds of either sword to thee we owe;
Therefore on thy firm hand religion leans
In peace, and reckons thee her eldest son."

In this negotiation, Baillie relates, "The English were for a civil league, the Scots for a religious covenant;" and the name of the Solemn League and Covenant shows how both were combined in the result. This great instrument bound those who signed it to "the *preservation* of the reformed religion in the Church of Scotland, in doctrine, worship, discipline, and government, against our common enemies;" and to "the *reformation* of religion in the kingdoms of England and Ireland," in the same particulars. The Scots, who were highly flattered by the whole transaction, would willingly have added that the reformation should be according to the model they had themselves already adopted. But by the skill of Vane[1] in Edinburgh, and the prudence of the Westminster Assembly of Divines in London, it was provided that the reformation should be more generally "according to the Word of God and the example of the best reformed churches." A subsequent clause, however, covenanted, in particular, that they should "endeavour the extirpation," not only of popery, but of prelacy, and all depending on the "hierarchy," and should aim at as much "conjunction and uniformity" as possible in matters religious. It was what the House of Commons and most of the people of Scotland desired; and it was a great political gain that men like Milton and Cromwell now voluntarily bound themselves along with the mass of their countrymen in the enthusiastic way with which Scotland had long been familiar. But, at such a crisis, and in that age, such a bond could not remain voluntary. In September 1643, the Houses ordered that it should be subscribed and

[1] Another famous contemporary of Vane, Richard Baxter, says that, while obscure in most things, he was plain and prevailing in an "earnest plea for universal liberty of conscience, and against the magistrate's intermeddling with religion." Vane's words before dying on the scaffold were: "The people of England have been long asleep; I doubt they will be hungry when they awake." "They have slept," adds T. H. Green (the Gray of *Robert Elsmere*),—"they have slept, we may say, another two hundred years. If they should yet wake and be hungry, they will find their food in the ideas which, with much blindness and weakness, Vane offered them, cleared and ripened by a philosophy of which he did not dream."—Green's Works, iii. 364.

sworn throughout the whole English nation; and next month the Privy Council for Scotland ordered that the same should be done there also. This new test drove out of the Church of England hundreds, if not thousands, of its clergy; for the army of Scotland once more entered England, and the Parliament and the future Lord Protector now began their career of success. Success brought its usual responsibility; and the Commons were soon face to face with the question of the Church. They already had, in June 1642, adopted the prudent course of calling "an assembly of divines to be consulted with by the Parliament," but only on such matters as Parliament should propose to it, and for the purpose of having a right government "settled" in the Church. That such a "settlement" was the business of the State, was the unhesitating belief of nearly the whole Assembly, and of nearly the whole Parliament; and how to reconcile this with ideas of freedom like those of Milton, soon came to be the speculative problem. The Church of Scotland and its commissioners to England, filled with their national passion for unity, openly denounced all "toleration for sectaries;" and it was this dominant and Presbyterian part of the Assembly whom the poet addressed in the words,—

> "Dare ye for this adjure the civil sword
> To force our consciences that Christ set free,
> And ride us with a classic hierarchy?
> . . . . . .
> New Presbyter is but old Priest writ large!"

The hierarchy of "classes," which then as now existed in Scotland, would in that age have ridden too sharply over even those who voluntarily submitted to it. But it came to be a different matter if every Englishman was to be bound by law and under penalties to join a congregation, and if every congregation had now to submit to its "class" or presbytery.

But how far in point of fact did the Westminster Assembly "adjure the civil sword" thus to act? What was its theory on Church and State?

Its **Confession of Faith**, for the next two hundred years the doctrinal standard of Scottish and American Presbyterians, hesitates between two inconsistent views. It lays down the Reformation principle of private judgment, that "God alone is Lord of the conscience, and hath left it free" from all restriction in religion but His word; but adds that this Christian liberty is not opposed to the "powers which God hath ordained." One of these powers is the Church, and its freedom is provided for much more explicitly than in the later Reformation creeds, by the statement that "The Lord Jesus, as King and Head of His Church, hath therein appointed a government in the hand of Church officers, distinct from the civil magistrate," the Church having power of discipline and excommunication, and power to hold synods and councils, but on ecclesiastical matters only. God has, however, appointed under Himself the civil magistrate also, whose authority is not made void by infidelity or difference in religion from his subjects, nor are persons ecclesiastical freed from it; "and he hath authority, and it is his duty, to *take order* that unity and peace be preserved in the Church, that the truth of God be kept pure and entire, that all blasphemies and heresies be suppressed, all corruptions and abuses in worship and discipline prevented or reformed, and all the ordinances of God duly settled, administered, and observed." The peculiar phrase, "to take order" (in Latin, *providere*), was intended to prevent the State assuming, with reference to these great religious matters, that direct government of the Church which the English articles and statutes had conceded to the Crown, but which the Puritans now refused. Yet the moral and religious duty thus laid upon the magistrate (even without direct government) is immense in its range. And as it is to be discharged by him, not by moral suasion, but through his proper powers, exerted outside of the Church, and not inside (*circa sacra*, not *in sacris*), it is impossible to contemplate without alarm the pressure upon the conscience of the Church as a whole, which a power (lawful, as we are reminded, even when it is heretic or infidel) is thus called upon authoritatively to exercise. It is significant, however, that the only specified means of the State performing this duty is by calling synods, and (using again a word of extreme ambiguity) "*providing* that whatsoever is transacted in them be according to the mind of God." For though the Westminster Assembly thus formally retains the view of previous creeds, that the magistrate is to judge for himself what is the mind of God, its suggestion rather is that he may best learn from the synods of the Church what the truth is which he is to see "kept pure," what the heresies are which he is to see "suppressed," and what the "ordinances of God" are which he is to see "observed." But while the chapter as to the civil magistrate is thus objectionable

as being ambiguous, a few words at the end of the very fine chapter on Christian liberty are alike pernicious and plain. They proclaim that not merely the Church by its "censures," but the magistrate by his "power," may proceed against men who merely publish opinions, provided they are contrary to the "known principles of Christianity," or to "the power of godliness," or even to "the external peace and order" of the Church. Many men in that great Parliament, especially among the Independents, did not sympathize with this. And they were determined, not only to refuse the addition of civil penalties to whatever sentence the Church might choose to pass, but to "take order" that it should not pass them too easily.

The legislative result reflected the inconsistent and transition character of these theories, and was instructive, though not destined to be permanent. Parliament retained the settlement of religion in the hands of the State, on one occasion sharply reminding the Assembly of Divines that their opinion was only to be given when asked for. It declined to formulate the *jus divinum* of Presbytery, but in January 1642 it "resolved, That the Church be governed by congregational, classical, and synodical (*i.e.* provincial and national) Assemblies, in such manner as shall be established by Parliament." The national Assembly never met, but the rest of this Presbyterian constitution began to be organized, and the local government of the Church was understood to be handed over to it, with one important restriction on its powers of discipline. Certain offences were enumerated by Parliament in an Act of 1646 as scandalous, and to be dealt with by the congregational elderships; but with regard to all non-specified offences, a commission of nearly two hundred members of the Lords and Commons was named, who were to judge of them, on appeal from the Church Courts, and "with the reserve of a final appeal from excommunicated persons to Parliament itself." Imperfect as a settlement with this Erastian element was in the eyes of the Presbyterians, it was too near *their* views to be accepted by the England of that age, and the great representative of the age perceived it. One of the grounds of quarrel between Cromwell and the successive Parliaments

which he dissolved was, that members of the constitutional (which was also the Presbyterian) party there insisted on occupying time with proposals to abolish lay patronage in the Church, and to exchange the tithes of the land for the contributions of the congregations now gathered into classes. Cromwell and the army made shorter work. They suppressed alike the ancient civil Parliament of England and its newly-proposed ecclesiastical Assembly; and during his arbitrary but prosperous reign, the Church of England, nominally Presbyterian, was practically rather Independent or Congregational. The original proposal for a republican constitution was that Parliament should have supreme judgment "concerning all national or civil things, but not concerning things spiritual or evangelical." The Lord Protector, however, and his Council of State retained the compulsory payment of tithes,[1] and also lay patronage; but this last was qualified by instituting a Board of Triers, three-fourths of whom were ministers, to examine the candidates presented as to their fitness; while in every county a church board, also consisting of ministers and laymen, looked over ecclesiastical affairs, and weeded out worthless incumbents. The Protector's scheme of toleration, though almost equally arbitrary with his constitution for the Church, worked equally well in practice. Episcopalians, nominally excluded from toleration on political grounds along with Roman Catholics, were generally indulged in the exercise of their worship; and liberty of conscience to creeds generally was for the first time practically allowed.

The Restoration of Charles II., A.D. 1660, was followed by the restoration of bishops, by the new Act of Uniformity, which

[1] Against the advice of his illustrious secretary, who, in the first year of the protectorate, promises him success, "if you leave the Church to the Church, and wisely relieve yourself and the magistracy of that burden, which is as heavy as your proper work, and at the same time is most incompatible with it; . . . if you also take away all persecuting power from the Church, for persecuting power will never be absent as long as money . . . shall be extorted by force from the unwilling, as a pay for preaching the gospel."—Milton's *Defensio Secunda*.

demanded the assent and consent of every minister, before Bartholomew's day 1662, to all contained in the Book of Common Prayer; by the Conventicle Acts, for imprisonment or transportation of those attending religious meetings outside the Church of England; and by a Test Act in 1665, with an oath even for nonconformist ministers, that they would endeavour no alteration of government whether in Church or State. These severe measures, and the repression of dissent, which was to last for the next thirty years, were due much more to the relation of Church and State than to any new passion for the doctrine or practice of the Church. In faith and conduct alike there was a general relaxation of tone. One of the great influences in Charles the Second's time was Hobbes, who, from the days when as a young man he was Bacon's secretary, had maintained steadily that there were no rights of faith or conscience against the absolute power of the king, to whom the "leviathan" people has made over all individual rights as well as all common powers. And many other influences contributed to the reaction. Now, as before, the Church of England was more tolerant than Presbyterianism to those within it. But it was more intolerant to all who did not conform. Nothing, at first sight, can be a greater contrast to the Church statutes of the Restoration than the famous treatise of one of its bishops, Dr. **Jeremy Taylor**. In his *Liberty of Prophesying*, published so early as 1647, he eloquently urges that beyond the articles of the Apostles' Creed, nothing is fundamental and few things are certain in Christianity; that churches should frame no larger standards of faith, and are guilty of schism if they enforce them; and that there should be no persecution or civil punishment for errors of opinion. A demonstration of "the unreasonableness of prescribing to other men's faith, and the iniquity of persecuting different opinions," should have made a foundation for the fullest toleration. But the taint which pervades this important and charming book—the suggestion, implied everywhere rather than put—that toleration may be based upon indifference, and that if men could have full belief

in dogma, they might be excused in persecuting for its sake—has even in its pages results apparently remote, but really characteristic. In the seventeenth chapter, the "eclectic theologian," as he calls himself, seems to reserve a right in the Church to demand, and in the State to enforce, *external* conformity, with penalties against those who conscientiously refuse. And accordingly, immediately after the Restoration, thirteen years later, his *Ductor Dubitantium*, dedicated to Charles II. as the appropriate custodier "of both tables of the law," fills in the steps by which the great bishop had slid down the descent. In it he instructs doubtful consciences that the supreme civil power is unlimited, and that the king is above the laws; that he has a legislative power in the affairs of religion and the Church, and a jurisdiction in causes "not only ecclesiastical, but internal and spiritual;" while outside the Church it belongs to princes "to tell what religions are to be permitted and what not," and when one is established by law, "no man is to be permitted to bring in new religions, except only him who can change the law, and secure the peace." This union of latitudinarianism of opinion with servility to the ruling power, was now, as we have seen, the prevailing tendency also on the Continent. And it was illustrated near home. In Scotland, the restoration of Episcopacy in 1662 proceeded not from any Church convictions, but upon the grounds stated in the statutory preamble, "Forasmuch as the ordering and disposal of the external government and policy of the Church doth properly belong unto his Majesty, as an inherent right of the Crown, by virtue of his royal prerogative and supremacy in causes ecclesiastical;" and the cruel severities with which the change was enforced were accompanied by professions, in most cases sincere, of complete indifference to religious scruple. Sir George Mackenzie, the king's advocate of this reign, was its ornament and apologist; and in 1663 he published his *Religio Stoici* (in style an imitation of the sublimely speculative *Religio Medici* of Sir Thomas Browne of the earlier part of the same century). The stoical young lawyer urges that

in religion what is important is the practice of piety and not the confession of our faith ; and that there should be no persecution of opinion, for "opinion, kept within its proper bounds, is a pure act of the mind." Yet in utterance of it the individual should "bow the flag of his private opinion to the commands of the Church ;" and "in this, as in all articles not absolutely necessary for being saved, I make *the laws of my country to be my creed*." In short, "as every private Christian should be tolerated by his fellow-subjects to worship God inwardly according to his conscience, so should all conspire in that exterior uniformity of worship which the laws of his country enjoin." Long after, in 1681, the "Act anent Religion and the Test," no doubt drafted by Mackenzie, pointed out that the only thing that could give confidence to "schismatical dissenters from the Established Church," was supine neglect of putting in execution the good laws provided against them. It was true ; and accordingly this enlightened latitudinarian now earned for all time coming the name of the "Bloody Mackenzie," by steadily enforcing the Crown's supremacy against Scotsmen who held the individual conscience to be free from the commands in religion even of the Church, and much more of the State, and most of all of the king. For the absolute power of royalty was fast coming to its end in England and Scotland both. It was fated to perish not by acts of intolerance alone. James the Second, like his predecessor, repeatedly proclaimed measures of toleration or indulgence ; but these, including Roman Catholics and Protestant dissenters, were rightly suspected by the country as being mere moves towards the supremacy of the old faith. That faith did not profess any toleration, and at the present moment, in the adjacent country of France, it had become, even in its anti-ultramontane form under Louis XIV., cruelly aggressive and triumphant. Besides, England doubted whether a mere royal proclamation could unmake the laws,—even "the good laws provided" against dissent. Thus on two opposite sides the Stuarts again raised for themselves the great constitutional

question of the power of royalty to dispense with the law. And this second controversy with absolutism (made more serious by the doctrine of "non-resistance," proclaimed by the University of Oxford for the Church) only needed the royal hand to be laid aggressively on that Church and university,—in the former case, by sending the bishops an indulgence of Catholics to be read from the pulpits ; in the latter, by using the Elizabethan Ecclesiastical Commission to appoint Catholic college fellows,—to become a revolution.

The English Parliament resolved, in **1689**, that James had abdicated the government, having endeavoured to subvert the constitution by breaking the original contract between king and people ; the Scottish Estates, that he had *forfaulted* (forfeited) their crown, having altered the kingdom from a legal limited monarchy to an arbitrary despotic power. Both, in addition to retaining the Protestant limitation of the crown, restricted it for the future to a special line, thus breaking for ever with the theory of hereditary divine right. This being settled, an advance was made as to the Church and State question,—an advance which was, as usual in this country, imperfect if tested by any theory, and still more if tested by the theories of the short-lived English Commonwealth. But it was now to be a permanent advance. In **Scotland**, the Parliament having abolished prelacy, rescinded Charles II.'s Act asserting the royal "supremacy over all persons and in all causes ecclesiastical," ratified the new Confession of Faith which the Church had accepted of its own authority[1] as far back as 1647, and restored the administrative self-government of the Presbyterian Church. No Act of toleration was yet passed, but a statute quietly provided for the repeal of "all Acts enjoining civil pains upon sentences of excommunication." In **England** also a privileged Church was retained ; and while the

[1] And with qualifications expressed in the Act of Assembly, 1647,—qualifications which those who believe in the historical independence of the Church of Scotland suppose to have modified its obligation to the Confession even after the Revolution, at least down to 1843.

nonjurors on the one side refused the new oaths tendered to its clergy, the king's attempt to pass a measure of "comprehension" of other nonconformists was found in vain. This made of more importance the great English Act of Toleration of 1689.[1] To us in our day it appears hampered with heavy conditions. It exempts from penalties those who do not attend the Church established, or who attend worship elsewhere, only upon their taking, if laymen, the oath of allegiance and the declaration against popery; and if ministers, subscribing in addition the Thirty-nine Articles (except Articles 34, 35, and 36, and the part of the 20th which acknowledges power in the Church "to decree rites and ceremonies, and authority in controversies of faith"). To the nineteenth century this seems a narrow and grudging piece of legislation. But it was a great step from Tudor and Stuart despotism, and from all that went before. For the first time since England was a nation, the worship of God was permitted outside the law, and a Church was tolerated outside the Church which the State selected for support.

And one illustrious man was found even then to disinter the religious principles which underlay the English Revolution, and which were destined in days to come to receive the homage of all. "Locke's first letter on Toleration," says Sir James Mackintosh, "the most original of his works, was published in England in the year of the Revolution, to vindicate the Toleration Act, of which he lamented the imperfection." Accordingly, in his preface to the reader, Locke, while admitting that there is no nation under heaven "in which so much has already been said upon the subject" of his treatise as England, holds also that "there is no people that stand in more need of having something further both said and done among them on this point than we do." Even those who have demanded toleration in England, have done it upon "narrow principles suited only to the interests of their own sects." Declarations of indulgence will but palliate, acts of comprehension will but increase, our evil.

[1] 1 W. and M. c. 18.

"Absolute liberty, just and true liberty, equal and impartial liberty, is the thing that we stand in need of." Accordingly he does not inquire, like his predecessors, whether this article of religion is so trivial that the magistrate should not think it worth his while to persecute for it, or whether that other is so precious that he cannot reasonably expect his persecution to be successful. Locke raises the question whether the magistrate is in any case entitled to be religiously intolerant, and, in order to an answer, he inquires what is the business of Government as distinguished from that of religion. It has to do exclusively, he answers, with civil goods, such as life, liberty, money, and possessions; and the magistrate exists, and is entitled to use force, only for maintaining these. "The care of souls is not committed to the civil magistrate any more than to other men." Religion is inward persuasion of the truth, and all men may persuade; but force has no tendency to do so, and the magistrate's power, which is that of force, does not extend, therefore, to the establishing of any articles of faith or forms of worship. And even if laws and force had a tendency to convince men, conviction so obtained would be not a good but a miserable result, the consciences of private men in every country being obliged to follow their prince. A Church, on the other hand, is a voluntary society of men agreeing to worship God. It has nothing to do with force, and even excommunication (which is the right of every such society against its members who refuse to obey its laws) should deprive no man of his civil goods. Neither should any Church be allowed to prejudice another in civil things, or any man to prejudice another outside his own Church, because they differ in religion. It is the magistrate's business to prevent that. It is not his business to interfere either with worship or with doctrine, — not with worship, for he has no business to intrude there, either to enjoin ceremonies and things in themselves indifferent, or to forbid things which he may rightly or wrongly think absurd or even idolatrous; and not with faith, for our belief does not depend upon our will or his force,

and the false profession of it which he may no doubt extort would be a gain to no one. Locke's argument is somewhat weakened by his always dealing, as was the manner of his age, with "the magistrate," instead of going a step farther to those who give the magistrate his powers, and inquiring what right a majority has to prescribe religion to a minority. His tone is calm, reasonable, and latitudinarian, and his theory of the Church takes it on its earthward side.[1] But he never loses moral dignity, and, in particular, notwithstanding the temptations of an inadequate philosophy, he does not fall into the thin-blooded fallacy of those who found toleration on indifference. Accordingly, his work made a great impression at home as well as abroad, and Bishop Warburton, a hundred years later, remarks that all those who since Locke had written on "the divine principle of toleration," might be said only to do what had been done thoroughly before. But in Warburton's time, and long after, the system of test and privilege against which Locke reasoned, remained unbroken in Britain. The priority in giving legislative embodiment to his principles passed to other lands ; and to these we now turn.

[1] The orthodox Protestant divines in Locke's time held that there were two sides, and that the Church is a voluntary society, though not a mere voluntary society. Thus a very representative scholar, Gisbert Voetius, says that each national or particular Church is founded —

1. Ultimately, on the institution of the Church as a whole by God.

2. Intermediately, on the application of that general institution to the particular circumstances and time.

3. Proximately and properly, on the voluntary consent of its members (*mutuus consensus*).

—Voetius' *Politica Ecclesiastica*.

## CHAPTER X.

### THE REVOLUTION, IN AMERICA AND EUROPE.

SOON after the middle of the eighteenth century, Europe, as we have seen (p. 170), had come to regard with deep disgust the long-subsisting and intertwined tyranny of the Church and State. In only one great nation had there been an approach to complete freedom, and the step taken by Britain in 1690 was exaggerated by the admiration of her neighbours across the Channel. Men like Montesquieu and Voltaire took back from our shores a belief that England had accepted, and would at once put in practice, the full principles of toleration sketched by Locke. The expectation was premature. But in a few years the embodiment of these principles, in the fundamental constitution of a new great nation in America, attracted all eyes in Western Europe, and gave an impulse to the change which impended in France, and was destined, more slowly, to follow in other European lands.

The American colonies had only recently been saved from annexation to France by the policy of Chatham, culminating in the defeat of Montcalm at Quebec in 1759. But no sooner had this great wing of our empire been unfolded, than it was lost by the refusal to grant it a very moderate amount of self-government. The States accordingly declared for separation ; and on 4th July 1776, their representatives met in congress, and prefixed to their **Declaration of Independence** a statement of principles such as had hitherto been found only in the works of thinkers, theorists, and men under persecution :—"We hold these truths to be self-evident, that all men are created equal ; that they are endowed

by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; and that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed." England's struggle was complicated by the claims of Ireland, and 1782, when the supremacy of the Irish Parliament was formally granted by statute, saw also the acknowledgment of the independence of America. But it was already plain that the union of the Transatlantic States, thus founded on the original rights of the individual man, would involve a great advance in the Church problem. The religious origin of the several States had differed greatly. "New England was settled by Congregationalists; Virginia, the Carolinas, and Georgia, by Episcopalians; New York, by Dutch Reformed, followed by Episcopalians; Rhode Island, by Baptists; Pennsylvania, by Quakers; Maryland, by Roman Catholics; while Presbyterians, Methodists, Lutherans, German Reformed, French Huguenots, Moravians, Mennonites, etc., were scattered through several colonies" (Dr. Philip Schaff). So, too, their original charters and constitutions had not been the same. Rhode Island, as early as 1663, declared that "no person within the colony should be called in question for any differences of opinion in matters of religion;" and Pennsylvania, in 1701, declared that no one acknowledging a Deity should be compelled by the State to frequent or maintain any religious ministry or worship. On the other hand, several States had religious establishments; and New Haven and Massachusetts had started in the days of the Stuarts with provisions (in the case of the former), that every State official must be a church member (in the case of the latter,) that every freeman must be the member of some orthodox church,—general provisions which were carried out in detail by minute regulations, like those of Calvin in Geneva. Accordingly each State, now free from English control, and continuing to retain its home rule in America, took its separate course in working out a more equitable religious *régime*. It was not till 1833 that the parishes of Massachusetts ceased to tax

themselves for the support of congregational worship.[1] But in the general case the growth of opinion for the previous hundred years, with the sudden final shock which produced the Declaration of Independence, and the necessity at that crisis of recognising the rights of conscience of fellow-citizens, had an immediate effect. Accordingly, most of the States (led by Virginia, which disendowed its privileged Episcopacy in 1776) followed up their separation from Great Britain, in a year or two, by a separation of the Church, in all its forms and branches, from the civil government. And the principle thus gradually making its way in detail, was now to be sanctioned, in the Constitution of the United States as a national whole. That document, which a great statesman and student of politics has called "the most wonderful work ever struck off at a given time by the brain and purpose of man,"[2] was drafted in 1787; and it contained the provision (far in advance of what had then been reached by Great Britain), that "no religious test shall ever be required as a qualification to any office or public trust under the United States." It was at first thought that no further limitation on the powers of the new central body, the Congress of the States, should be expressed, especially as it was held that that assembly could only have such powers as had been conferred upon it, either by the people as individuals, or by sovereign States. But religious liberty seemed too important to be left to implication; and the Constitution was completed in 1791 by ten amendments, the first of which commences—

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

The equal importance of the two sides of this statement has been illustrated during the century since it was founded, alike by the contemporary mistakes of other countries, and by the remark-

[1] The final collapse was appropriately brought about by a parish so taxed insisting on choosing a Unitarian minister, contrary to the votes of the church members, and being upheld by the courts in doing so (in the Dedham case). —See Buck's *Mass. Ecclesiastical Law.*

[2] Mr. Gladstone.

able peace which in this republic has prevailed between the Church and the State. There is, indeed, scarcely anything to record further upon the subject, though for a hundred years both the State and the Church have there worked, each in its own sphere, with extraordinary energy and success. One association was formed in the States a few years ago, for the purpose of securing "certain religious amendments to the Constitution," and, in particular, for formally recognising in it the Divine name; and another exists for the opposite purpose, of abolishing all recognition of oaths, Sunday, holidays, or the Bible, whether by Congress or the States. It does not appear, however, that either association complains that the State on the one hand, or the Church on the other, is seriously interfered with in its proper work by the present Constitution. Difficulties as to administration occur only where all other countries find them, in matters which lie rather on the border-line of religion, as in the use of the Bible in public schools, and in other educational matters. But these also occur on the border-line on the side of morality, as in the question whether polygamy among the Mormons should be tolerated by the other States and the Union.

The other region of Law has been remarkably free from the difficulties which occasionally emerge even in American politics. During the last hundred years, the State courts (each final in its own State), and the Supreme Court of the United States, have built up a coherent system on the points on which every Church, whether established or not, must necessarily come in contact with the civil law. These the author has had occasion to summarize as follows, with approval from some authorities in the law of America.

1. American law acknowledges a voluntary jurisdiction in the Church; leaves all church questions (of worship, doctrine, discipline, and membership) to the decision of the Church itself; and refuses to review these decisions. But

2. It claims for itself complete and exclusive control, not only over the life, liberty, and goods of all men and churchmen, but over all church property and church funds.

3. In order to decide these purely civil questions of person, goods, and estate, the law necessarily deals with innumerable religious questions and church relations.[1]

4. Where such civil question (of property or money) turns upon an express trust, American law inquires for itself into the fulfilment of the conditions of that trust (whether these be religious or ecclesiastical) to the uttermost, and it enforces the trust to the effect of settling the question of property, but to that effect only. It never replaces a church member or official, or interferes with internal church organization or administration.

5. When property is held by a church generally, or for church purposes, unspecified (and not on an express trust, as for the maintenance of certain doctrines or government), American law presumes, in questions as to that property, that the administration of church matters by the Church, and the decisions of church questions by its tribunals, are right; and in one such case the Supreme Court of the United States has also announced that it will hold the decision of the Church (by its majorities or judicatories) to be not only right, but conclusive, upon the Church question, and will regulate the civil question of property which may depend upon it accordingly.

The principle on which the Supreme Court in such cases decides, is that the Church is not only the best judge (so that an appeal from the Episcopal or Presbyterian organization to the court would be "an appeal from the more learned tribunal in the law which should decide the case, to one which is less so"), but also and especially because the Church is the appointed and proper judge of Church matters. "It is of the essence of religious unions, and of their right to establish tribunals for the decision of questions arising among themselves, that those de-

[1] More seldom, however, in America, because the "religious society" or body of managers in whom congregational property is usually vested, and who are incorporated by the State law, is different from the body of deacons, elders, churchwardens, or other properly ecclesiastical officials, with whom the court declines directly to deal.

cisions should be binding in all cases of ecclesiastical cognisance, subject only to such appeals as the organism itself provides for."[1] This leaves room for some cases in which the alleged ecclesiastical decision which is pleaded fails (for lack of jurisdiction or some defect graver than mere irregularity) to decide the matter in which it is pleaded; and in such a case the organism may provide for, or not provide against, an appeal to the civil courts on the civil or pecuniary question. But the court will only take it up in such cases to civil or pecuniary effects; and it declines to meddle with the Church itself by way of mandamus or interdict. The result is that the Church in its various forms, in a country which refuses to make any law respecting the "establishment of religion," holds a secure and honoured place; and its main branches, separated from each other in faith or practice, find room and scope now among the fifty millions of a population as they did among the four millions of 1790.

Equally instructive is the way in which the Episcopal and Presbyterian Church of the United States, each set free from sinister influences in its past by the shock of revolution, have dealt with the articles of their respective creeds on toleration and the civil magistrate. Each of these bodies met about the time

[1] *Watson* v. *Jones*, 1872, Wallace's Supreme Court Reports, vol. xiii. p. 679. This seems to be nearly the same position as that of the English Privy Council in the case of *Long* v. *Capetown:* "The Church of England, in places where there is no Church established by law, is in the same situation with any other religious body,—in no better, but in no worse position; and the members may adopt, as the members of any other communion may adopt, rules for enforcing discipline within their body, which will be binding on those who expressly or by implication have assented to them. It may be further laid down, that where any religious or other lawful association has not only agreed on the terms of its union, but has also constituted a tribunal to determine whether the rules of the association have been violated by any of its members or not, and what shall be the consequence of such violation, then the decision of such tribunal will be binding when it has acted within the scope of its authority, has observed such forms as the rules require, if any forms be prescribed, and if not, has proceeded in a manner consonant with the principles of justice."

the American Constitution was passed; but the large changes proposed in both Articles and Liturgy by the American Episcopalians were objected to by the English bishops. It was not, therefore, till 1801 that they exchanged the first sentence of the 37th Article for that printed in a note below.[1] It will be observed that this new and short statement agrees admirably with the view given in the Westminster Confession as revised by the American Presbyterians in 1787. Their convention met in Philadelphia along with that which framed the Federal Constitution, and the much-needed change in this, also given below, has been heartily accepted by the Presbyterians of what were called the New and Old Schools, and by the South as well as the North.

[1] CHANGE IN THE THIRTY-SEVENTH ARTICLE OF RELIGION.

| ENGLAND, 1571. | AMERICA, 1801. |
|---|---|
| The Queen's Majesty hath the chief power in this realm of England, and other her dominions, unto whom the chief government of all estates of this realm, whether they be ecclesiastical or civil, in all causes doth appertain. | The power of the civil magistrate extendeth to all men, as well clergy as laity, in all things temporal; but hath no authority in things purely spiritual. |

CHANGES IN THE CONFESSION OF FAITH.

| WESTMINSTER, 1647. | AMERICA, 1787. |
|---|---|
| Chap. xx. § 4 Declares, that those who publish heretical opinions, or maintain schismatical practices, "may lawfully be called to account, and proceeded against by the censures of the Church, and by the power of the civil magistrate." | Chap. xx. § 4 Omits the clause, "and by the power of the civil magistrate." |
| Chap. xxiii. § 3. The civil magistrate may not assume to himself the administration of the word and sacraments, or the power of the keys of the kingdom of heaven; yet he hath authority, and it is his duty, to take order that unity and peace be pre- | Chap. xxiii. § 3. Civil magistrates may not assume to themselves the administration of the word and sacraments, or the power of the keys of the kingdom of heaven, or in the least interfere in matters of faith. Yet, as nursing fathers, it is the duty |

France, in looking forward to its revolution, had before it more or less consciously the recent example of America. The French also had to contend with an oppressive Crown and with a State Church much more tyrannical than any across the Atlantic. But in two respects, one religious and one political, they were not so prepared for dealing successfully with the problem of Church and State as the heroic colonists. The spirit of irreligion and scepticism, fanned by a restless and powerful literature, had by this time penetrated through the higher ranks of France into all classes of the people. And the resulting temper of indifference, favourable enough to toleration while it lasted, was not likely to be so permanent a foundation even for that virtue as was the other mood of personal conviction, accompanied with

served in the Church, that the truth of God be kept pure and entire, that all blasphemies and heresies be suppressed, all corruptions and abuses in worship and discipline prevented or reformed, and all the ordinances of God duly settled, administered, and observed. For the better effecting whereof he hath power to call synods, to be present at them, and to provide that whatsoever is transacted in them be according to the mind of God.

of civil magistrates to protect the Church of our common Lord without giving the preference to any denomination of Christians above the rest, in such a manner that all ecclesiastical persons whatever may enjoy the full, free, and unquestioned liberty of discharging every part of their sacred functions without violence or danger. And as Jesus Christ hath appointed a regular government and discipline in His Church, no law of any commonwealth should interfere with, let, or hinder the due exercise thereof, among the voluntary members of any denomination of Christians, according to their own profession and belief. It is the duty of civil magistrates to protect the person and good name of all their people, in such an effectual manner as that no person be suffered, either upon pretence of religion or infidelity, to offer any indignity, violence, abuse, or injury to any other person whatsoever; and to take order that all religious and ecclesiastical assemblies be held without molestation or disturbance.

respect for the convictions of others. Indifference was, at all events, the last quality to promise to the Church that authentic courage and energy which she needed when external resources were now likely to be withdrawn. On the political side, also, the French nation, animated by a new enthusiasm for freedom, had not been trained or ripened for self-government. Without the sturdy individualism of the Anglo-American, the new French democracy desired instinctively to be ruled as before from one centre. Even its prophet and teacher, Rousseau, while going back with a passionate belief to liberty and the state of nature, showed little of the American jealousy of handing over to the new democracy the rights of the individual. On the contrary, in his *Contrat Social*, he rather held up for admiration the theory of Hobbes, and, while rejecting all Christian faith as intolerant, suggested that the State should have an undogmatic religion, which all citizens should receive on pain of punishment, and should adhere to on pain of death. Both these incapacities must be kept in view as we watch the closing century in Paris, with its short-lived but instructive experiment in Church and State.

The same year, 1787, which produced the Constitution of the United States in America, produced the first edict of Toleration in France. It allowed non-Catholics to live in France, and to trade, to marry and register children, and to be buried there. But it went no farther. Its first article ran, "The Catholic Apostolic and Roman religion shall continue alone to enjoy in our kingdom the right of public worship." Yet the Assembly of the French Clergy energetically protested next year against even this limited toleration. In the same meeting they protested no less strongly against a proposal by the Assembly of Notables, to tax all lands, including ecclesiastical property. But these reactionary utterances were inspired far more by the prelates than by the country priests. These last shared in the now awakening enthusiasm of their country; and accordingly, when, in the great year 1787, the States-General met, and a question

arose whether they should sit as one order or as three, it was the parish clergy who by a majority joined the *Third Estate*, and, with the reluctant accession of the nobles, and the final consent of the king, formed the **Constituent Assembly**. The Constituent, thus united, had not existed three weeks when the Bastille was stormed and fell, and, on **4th August 1789**, there fell with it, by the enthusiastic vote of the representatives of France, the whole innumerable privileges and inequalities of feudalism. Even before this date, Lafayette, fresh from America, had proposed that here also the nation should precede its reforms by a general "Declaration of the Rights of Man." It was uttered, and, ambiguous and misleading as some of its definitions were soon found to be, this document made an era by expressing the thoughts which underlay the European revolution. That all men are free and equal before the law; that the nation exists to preserve the liberty, property, and security of the individual; that only the nation and the law are sovereign; that even the law can only restrict the individual's liberty on the ground that others are injured by its exercise; that all arbitrary power is therefore to be resisted, but the law, as the expression of the general will and consent, is to be implicitly obeyed,—these were convictions that burned in the minds of the nation as of its representatives. But the former soon came to find the difficulty of obeying them in practice, and the latter of reducing them to legislative form. Even in completing the Declaration itself, questions arose, and not least on the article as to religion. It was proposed, on the one side, to announce that "for the good order even of society," morality, religion, and public worship should be established and maintained. On the other, it was moved, that "no man ought to be molested for his religious opinions, nor disturbed in the exercise of his worship." The last clause was objected to by the Catholics, as giving a right even of public worship to those who were not of the dominant Church,—a right which Mirabeau and Talleyrand now frankly defended at the tribune. But the Assembly came to the guarded conclusion

of the tenth article: "No one ought to be molested for his opinions, even upon religion, provided that their manifestation does not disturb the public order established by the law."

The ambiguity of these last words made room for the Church being declared national in a sense which its Catholic supporters had not intended. For the question of the relation of the Church of France to the State was opened rather than settled in the Declaration of Rights. It was to be much more fully discussed in the debates on ecclesiastical property. This point had been raised by part of the enthusiastic vote of the 4th August, which decreed the "amortization,"—the extinction or redemption, of tithes. What was this practically to mean? On that and a following evening, high dignitaries, in the name of the clergy, offered to give up a great part of the tithes to avert the threatened bankruptcy of the country. Nor did they protest against the vote of the Assembly which had proposed to deal with them as a whole. But a more serious question was raised by the subsequent motion of the Deputy Arnault on 10th August, that "all tithes shall be suppressed, and the Assembly shall provide without delay salaries for the ecclesiastics." The Bishop of Langres at once urged that the tithes are the *property* of the clergy, though they may offer to give them up. Mirabeau rejoined, "The tithes are not a property; the clergy cannot alienate them; the tithes are the subsidy with which the nation pays the salaries of the officers of morality and instruction." The words contained a forecast of the dangerous course by which France was to diverge from the line already taken in America, and to make the Church rather a department of the State. Perhaps the anticipation had influence with the Archbishop of Paris, who ere long rose, and, in the name of his brethren, remitted "all these ecclesiastical tithes into the hands of a just and generous nation." But the nation in most of its parishes had already begun to refuse the tithe, while the Church had other vast benefices and endowments, and the public need for eighty million livres was pressing, and had been remitted to

a committee. Talleyrand, as its reporter, and Mirabeau, as the leader of the Assembly, now asked for a formal decree, "That the ownership of the property of the clergy is in the nation, on condition of its providing for the support of the members of this order." In vain did Sièyes argue that property might be gifted to the clergy as well as to any other body, and warn them that Europe would say, "These people wish to be free, but they do not know how to be just." It was known that every State in Europe had asserted its right to relax the grasp of the Dead Hand in the interest of later and living generations; and even among the speakers who recognised the Church as independent, and capable of being trustee of property, some admitted that the State might most justly revise the pecuniary trust. But the majority went farther. True to the traditional tone of French lawyers and *parlements*, and to the theory of State sovereignty anew popularized by Rousseau, they insisted that the clergy, and even the Church, were corporations within the State which the State had power to regulate and modify or even abolish, and much more to deal with as to property. Mirabeau, indeed, only carried the vote after a fortnight's debate, by making the resolution run that the clerical property is, not "owned by the nation," but "at the disposal of the nation;" and by including public worship and the relief of the poor among the objects to which it should be applied. But at the close of the year, when discussing the religious orders, the Assembly refused to content itself with dealing with their property; it suppressed them, and forbade the introduction of others into France. And this interference with Church functions or organs was next year followed by the gravest revision of the whole Church organization.

"The Civil Constitution of the Clergy" of 1790 was preceded by a significant explosion. It occurred in the course of making arrangements that the departments and districts should now pay to the clergy the modest salaries to which they were henceforth entitled. Becoming the direct stipendiaries of the State, vividly

suggested that, as a deputy put it, "instead of the priest living by the altar, it was the public functionary who was now to live by his functions." The clergy were extremely uneasy at this change of position; and suddenly Dom Gerle, a revolutionary priest, proposed to satisfy all parties by declaring that "the Catholic Apostolic and Roman religion is, and shall remain, the national religion, and that its worship shall alone be authorized." The right rose with enthusiasm, and determined, if this decree were refused, to secede and appeal to the throne. Paris, on the other hand, seethed with indignation at the renewed union of religion and injustice; for while the resolution seemed to give one Church independence, it undoubtedly privileged it at the expense of all outside. After some days of extreme agitation, during which Mirabeau pointed out to the shouting crowd around the tribune, that window of the Tuileries from which had been fired the signal of St. Bartholomew, the Assembly passed to the order of the day. But on 27th May the Bill for the civil constitution of the clergy of France was brought in by the Jansenist deputy, Martineau. By this measure nearly all Church offices were abolished, except the parish curé and the bishop: both of these were to be chosen by the people of the district, no religious test being imposed on the electors; and the bishop, no longer to be absolute, was to govern through a responsible council of clerical assessors. If a Church ought to be national, this constitution, as judged by the ancient Gallican and Christian tradition, was in many respects admirable. But its first characteristic was, that it was provided for the Church, not by itself, but by the nation. The Archbishop of Aix demanded rather to consult the Gallican Church by a national council. Camus answered: "We are already a national convention: we have the power to change religion," and much more to organize the National Church. Robespierre, among others, spoke, urging the religious supremacy of the State; and by the 17th June the whole Constitution was adopted by the Assembly and sanctioned by the king. But now commenced an immense agitation in the pro-

vinces, which Paris, as usual, had left behind it. The pope, hostile to all national Churches, could not receive one where his bishops were to become constitutional officials; and his indignant protests were sharpened by the loss of Avignon, whose population was throwing off his temporal rule. On all sides, and especially in the south, disturbances ensued. Whether, after all, the Church, while protesting against the injustice of the State, would not have submitted to the new position of matters had it been now left alone, may be a doubtful question. It was not left alone. In November the Assembly resolved that all the higher ecclesiastics should take an oath to maintain the new Church constitution, thus substituting direct consent of individuals for the acquiescence, under protest, of the mass. Only four of the whole bishops of France consented. A hundred of them, in the first days of 1791, stood up in their places in the Constituent Assembly to refuse; and, the pope having now addressed to the king a condemnation of the whole civil constitution, the schism of the nonjuring Church was at once constituted. To maintain the principles of liberty in such circumstances along with a national Church, would have been an arduous undertaking, even with a people which had learned to obey its own laws. But among the last duties of the Constituent, before presenting its finished constitution to the king, was a protest against the violence offered by the municipal mob of Paris to nonjurors meeting in the Church of the Theatines, protected though it was by the modest placard—"Building consecrated to religious worship by a private society." The regular Legislative Assembly, about to sit, had a hopeless problem before it.

Even before 1791 closed, another crisis had arrived. Foreign intrigue and even invasion now threatened France. The Assembly decreed that the priests who had declined the oath to the Church constitution should take the ordinary civic oath, under penalty of losing the small pensions which they had been allowed to take with them on resigning; and that the refusers everywhere should be held responsible for local disturbances.

The king for the first time interposed his veto, and for months the masses raged against the slender constitutional obstacle. But on 20th April 1792, war was declared with Austria, and on 25th May the Assembly exchanged the proposed penalty on those who declined the oath for the simpler one of transportation. Louis again vetoed the measure, along with that which deprived him of his guard. In August the Tuileries was stormed by the mob; in September the accused were massacred in the prisons of Paris; and France, now a republic, called a **Convention**, to rule it at home, and "to hurl at the combined kings, in gage of battle, the head of a king." Its first act, as usual, was to revise the constitution, and in this second revision (1793) we find unequivocally stated as among the things not competent even to the law, hindering "the free exercise of worship." (*Le libre exercice des cultes.*) Some of the authors of the civil constitution of the clergy, satisfied now that it had been a mistake, proposed to annul it and leave the free *cultes* equal before the law. But Robespierre, since Mirabeau's death the intellectual leader of the Revolution, resisted in the tribune and in the "Seventh Letter" to his constituents all separation of Church and State as dangerous to the supremacy of the State, and only favourable to superstition. And under the Reign of Terror, after September 1793, while nonjuring priests were deported by the law, and sometimes massacred by the mob, superstition was to be attacked far more directly than by privilege to State teachers. The Commune of Paris undertook the propaganda of atheism, and pressed the Convention to move with it. Gobel, the constitutional bishop of the capital, appeared at the bar, and the shout of applause which hailed his renunciation alike of his episcopacy and priesthood, was followed by a rush of similar apostates. In the midst of it, Gregoire, the revolutionary bishop of Blois, took his seat, but was hurried into the tribune, that he too might resign his faith and office. "What do you want me to do?" he cried. "Is it a question of the revenue attached to the title of bishop? I abandon it to you at once. Is it a question

of religion? That subject is beyond your domain. I am Catholic by conviction. I am priest by choice. I appeal to religious liberty." He was howled down by the galleries; and day after day the recantations of all faith went on, till on the tenth day, in Nôtre Dame itself, the worship of the new goddess Reason was celebrated with flowers and songs. Nor was persecution wanting to this municipal revolution. The Council of the Commune had already resolved that all priests should be suspects, and all churches of all religions in Paris should be closed, when Robespierre, in the Jacobin Club, pronounced an eloquent protest against associating the country in its hour of danger with atheism. The Commune recoiled, and in the convention Danton and Robespierre now vied with each other in repressing the anti-Christian deputations. In March 1794, the Hebertists, Robespierre's atheistic opponents in the Commune, rose, and were crushed; in April, his rival Danton was guillotined; and in May, the Convention, at his instance, decreed for France that the "festival of the Supreme Being" should be held in repentant and alarmed Paris. So, on 9th May, the terrible president of the terrible Convention stood in the square of the Tuileries, his hands filled with offerings of fruits and flowers, and solemnly set fire to the statue of Atheism, over whose ashes presently appeared the sculptured form of divine Wisdom. Before August he too was guillotined by the tribunal whose irresponsible omnipotence he had himself lately decreed, and The Terror was over.

One of the first results was that the Assembly declared in September that the republic "no longer pays the expenses of any worship." It was not merely that since Robespierre the atmosphere had become more tolerant. The expenses of the worship budget had got confused. Priests of the Supreme Being and of Reason demanded pay, on the ground that they, as well as the constitutional Catholics, had been approved by the State; and priests who had thrown off the *soutane* claimed pensions, on the ground that they had never renounced the civic oath. Gregoire,

before the end of 1794, strongly urged the toleration of his opponents the nonjurors. And early next year, Boissy D'Anglas carried a motion, afterwards embodied in the third Constitution (of 1795),—the last before France again fell back under a single master and a foreign concordat. It provided that "no one can be hindered, while he conforms to the laws, from exercising the worship of his choice; but no one can be forced to contribute to the expense of any worship, and the republic salaries none." Imperfectly as this freedom and equality were maintained in detail under the Directory, they were yet now, at last, roughly recognised; and the result was, that in the last few years of the century religion again began to spread in France. The constitutional Church, no longer an endowed Church, reported that, after three years, worship was re-established in forty thousand communes, while its bishops held two national synods, one in 1797 and another in 1801. But through the provinces of France generally the nonjuring Church retained the affections of the people, as it retained its hold upon Rome; and the moment legal restrictions were removed, its worship rose all around. Religion was again becoming a power, and the young general who was now First Consul, and whom so many victorious campaigns had made the idol of the army and the people, was quick to mark it. Hence Napoleon's concordat of 1802, and the Organic Laws which, if they did not re-establish or re-endow one religion in the old sense, at least recognised and salaried religion in more forms than one. The men who remembered 1789 resented the step, and Lafayette made a journey to Paris to persuade Napoleon that the transatlantic "principle of perfect equality among all worships" was the only one permanently just. The new chief, then and afterwards, was perfectly frank in his comments on the situation. He said to Bourrienne: "Lafayette may be right in theory; but what is a theory? A folly, when it is wished to apply it to a mass of men. And then he imagines himself always in America, as if the French people were Americans. Lafayette will not perhaps teach me what is necessary for France. The Catholic

religion prevails here ; and besides, I have need of the pope ; he will do what I wish." The essential part of the new concordat between France and Rome was a provision such as had existed under the old one, "The First Consul shall nominate to the archbishoprics and bishoprics ; His Holiness will confer the canonical institution." So by appointments from both sides the schism of the higher bishops was healed, while the parish priests were to be appointed by them, subject to civil approval. But the papacy failed in getting the Catholic religion again acknowledged as that of France ; it was only declared to be that of "the great majority of the French," and its worship was to be "public," while it "conformed to police regulations necessary for the peace.' It was not to be, as the celebrated Minister of Worship, M. Portalis, explained to the Senate, exclusive or even dominant. Protestantism was also to be entitled to public worship, State protection, and State pay ; and neither communion could celebrate marriage until the civil ceremony had first taken place. On the other hand, liberty of conscience, though proclaimed, was unduly limited. All public existence was refused to religious communities not sanctioned by the State ; and even those sanctioned, while unduly favoured, were subjected to minute and careful regulation. Neither to Protestants nor Catholics was it conceded, says M. de Pressensé, "freely to extend or organize themselves, to adopt doctrinal decisions, or to modify their discipline, without the permission of the Government ;" so that now "the administrative network which encloses France on every side permits neither liberty of speech nor of association." But this strict regulation of all things by the State was very much what Napoleon had desired ; and it was when he returned from the first Mass at Nôtre Dame, after the acceptance of the concordat, that he uttered the words, "The French Revolution has now come to an end."

But the hundred years of the Revolution were only begun, and it was to be European as well as French. Indeed, the prepara-

tion for it, so far as the question of Church and State is concerned, was more advanced in the great States of Central Europe than in that of the West. Frederick the Great had commenced his reign with penning a memorandum that "all religions must be tolerated, . . . for in this country every man is to be saved after his own fashion." All his life the enemy of religion and idealism, Frederick was great only in war and administration; and such a man naturally promoted in Prussia the absorption of the Church by the State. His influence and that of the "collegio-territorial" school of lawyers is seen in the *Landrecht* or code, completed in 1794. Liberty of worship is by it nominally allowed to individuals, but only in connection with societies tolerated or recognised. In either case, however, these come under the supervision of the State, which decides in case of dispute, and confines church members and functionaries to their duties. This was carried farther in 1808, by abolishing the consistories and central authorities of the Church, and handing over its administration to the Minister of the Interior as part of his department. But the *Landrecht* regulated also the rights and duties of the Catholic clergy. And this was not resented; for German canon lawyers, following Van Espen of Louvain, and Von Hontheim of Treves, had recently rivalled the Protestants in giving the State a controlling power over the Church. Equally striking was the movement which preceded the Revolution in Austria. Maria Theresa, the opponent of Frederick, was a zealous Catholic, but though intolerant to her Protestant subjects, she maintained and enlarged the rights of the Crown against the Church, and limited the jurisdiction of her clergy. Joseph II., in 1781, went farther still. He was a *philosophe* upon the throne; and, wanting the cynical common sense of Frederick, he hastened to impose upon the peoples under him reforms often excellent, but sometimes premature. He proclaimed to all of the Greek and Protestant faiths the freedom of private worship and the abolition of religious tests; refused Papal Bulls and briefs; suppressed half the monasteries and monastic orders; took marriage into the protection of the civil law; and made

provision to enforce training the German clergy in German seminaries. It was going too far or too fast ;[1] and the attempt to extend the same policy into the Catholic Netherlands was met by resistance, and then, when centralizing measures were threatened, by revolt. Austria lost her provinces next to France in 1790. Joseph died in 1791, and the Revolution was now at hand. But the German empire had gone far to meet it in the church region.

Consequently, when the empire staggered under the expansion of revolutionary principles and the sword of Napoleon, the first thing which it sacrificed, in imitation of France, was the ecclesiastical property and the prince-bishoprics. Prussia, Austria, and Russia, by successive agreements with France and her great ruler, agreed to the *secularization* of all the ecclesiastical princedoms (except the archbishopric of Mayence) in what became the Confederation of the Rhine ; and while each of the parties gained part of the spoil, the people were so far emancipated. Toleration, indeed, followed the steps of the Revolution, even when those steps followed the path of war. Thus Switzerland,—which in 1529 had merely permitted each canton to choose between "the Mass or the Word of God" for the whole of its people, which in 1656 had commenced to tolerate the dissenting minorities in each canton, and in 1712 had liberated these minorities from contributing to the faith of the majority,—now, as the Helvetic Republic, proclaimed freedom to all faiths and worships, provided the public authorities had notice of their existence. Rome in all such cases protested ; but Rome was already feeling the combined pressure of the rights of the Italian people on the one hand, and of the French invader on the other. The concordat of 1802 was wrung from the unwilling hands of the pope ; it had been preceded by the giving up of the old ecclesiastical territory of Avignon, and was followed by Napoleon's "resuming" the Italian soil granted by Charlemagne, and bringing the pope a prisoner into France. Pius VII. consented to crown the new Cæsar, and, after long resistance, he signed another concordat at Fontainebleau in January 1813,

[1] "My brother," said Frederick, "takes the second step before the first."

which bound him henceforth to live as pontiff at Avignon, and to transfer to France that part of the patrimony of the Church. But already the empire of the usurping "heir of the Revolution" was passing away. In 1815 the Bourbons and the pope were both restored, with the apparent acquiescence of their peoples; the external face of Europe was changed, and a new age seemed to begin. But in truth the Revolution had in many Church matters merely precipitated domestic changes which were already in progress; and its termination by armed Europe allowed these changes again slowly to proceed. A progressive spirit soon began to move again alongside that of reaction, and the present century of Europe is so far a new age, that it may be reserved for a separate chapter, while we return to trace from its earlier Revolution to the present day the history of Britain.

## CHAPTER XI.

### THE BRITISH EMPIRE TO 1870.

THE English Revolution, by its Toleration Act of 1688, merely relieved worship outside the Church from penalties, and that only in certain cases and under certain conditions. The right of the State to maintain an established Church was still held to imply a corresponding duty on the citizen to be a member of it. The only change was in the extent to which that duty was now to be enforced by disabilities and penalties.[1] Accordingly the Nonconformist congregations were still forbidden to have a minister, unless he subscribed the "doctrinal" part of the Thirty-Nine Articles. And all Nonconformist laymen, besides being liable in tithes, were excluded from civil, military, and municipal offices by the Test and Corporation Acts. In Scotland, King William's attempt to pass an Act tolerating worship outside the Presbyterian Church, wholly failed. The Scottish law recognised only one Church; and in Queen Anne's time the unpopularity there of the proposed Union with England was largely due to dread by the Presbyterians of English pressure in favour of Episcopacy. Accordingly the Act of Security in 1705 not only provided that "the true Protestant religion and the worship, discipline, and government" of the Church of Scotland should continue

[1] Not till 1767 did Lord Mansfield declare on the bench that "there is no usage or custom independent of positive law, which makes nonconformity a crime. Conscience is not controllable by human laws, nor amenable to human tribunals. . . . Bare nonconformity is no sin by the common law." But this was in rejecting an attempt by the City of London to pass a bye-law fining Nonconformists for refusing to qualify (by taking the communion) to act as sherifis.

"without any alteration to the people of this land in all succeeding generations," but that the Presbyterian government should be "the only government of the Church within the kingdom of Scotland," and even that no professors or masters in any college *or school* in Scotland should ever be admitted to teach without joining that Church, and subscribing its Confession of Faith. The Union took place while Marlborough and the Whigs were in power; but their unwise prosecution of Dr. Sacheverell for a sermon in favour of "non-resistance" so increased the existing Tory reaction as to bring in the ministry of Bolingbroke. Before Anne's death that ministry had time to pass two Church Acts for Scotland and two for England. Of the former, one provided for the toleration in Scotland of the Episcopal communion, and of it alone; the other, for the restoration to patrons of Scottish churches of "their ancient rights of presenting ministers,"—rights which since the Revolution had been resumed by the heritors, elders, and people. The interference with the Church by a civil legislature (now not even a Scottish legislature), in this last statute, confirmed the existing protest of the Cameronians, prepared the way for the secessions from the Church which were to follow in 1733 and 1761, and laid the foundation for a singularly instructive chapter, a century and a half later, in the legal theory of Church and State. In England, many Nonconformists had adopted the practice of leaving their own congregations for one Sunday in the year to take the communion in the parish church; but Parliament, recognising that this "occasional conformity" was a mere evasion of the legal duty of membership in the Church of the State, now passed an Act providing that it should no longer qualify for office. At the same time another was passed, that in England, as in Scotland, Nonconformists should henceforth be incapacitated from conducting schools of youth. Queen Anne died in 1714, and was succeeded, not by a Stuart, as her ministers had hoped, but by the Georges; and it was not till the close of their four reigns that the fabric of legal privilege and exclusion thus maintained by the Revolution began to be broken down.

The Act, indeed, which forbade Nonconformists in England to teach in schools, was repealed (with that against occasional conformity) in 1719; but the statutes enforcing the doctrinal Articles on all ministers, whether within or without the Church, remained. They had no effect in promoting religion or hindering free inquiry. On the contrary, at no time was there a greater disintegration of dogma, Arian and Unitarian views making their way rapidly alike among the Presbyterian Dissenters and in the Church. But the legal orthodoxy was not enforced on Dissenters; the conflict between High Church and Low Church, in what was called the Bangorian controversy, distracted the Establishment, without promoting religion; and within and without alike, a moral languor reigned, which contrasted unfavourably with the brief but aggressive life of the Commonwealth. King William's Parliament, like that of Elizabeth, had simply deprived the nonjuring bishops; and all appearance of the independence of the Church as a clerical body was terminated by the royal prorogation of all its meetings of Convocation every year after that of 1717, without its being allowed to enter upon business. The clergy resented it, and were as a body opposed to the Hanoverian succession and to the Hanoverian bishops. But neither the Church nor the people were prepared to call back the Stuarts so long as they remained Catholics. Consequently, while the Church was strong enough to prevent any legislative grant of freedom to Dissenters, it was not able to increase their disabilities, or even to enforce those which nominally existed. Sir Robert Walpole's cynical common sense reduced the inconsistency at last almost to a system. The Test Acts were maintained, but from 1727 onwards an Act of Indemnity was brought in almost every year, to exempt those who had broken them from the penalty of exclusion from civil office. And even by the bishops and in the House of Lords these were for a whole century acquiesced in, while relief by more general legislation was refused. The principles of this refusal, and of Establishment as founded on tests, found expression in the vigorous book of Warburton on "The Alliance between

Church and State," published in 1736.[1] The first attempt at general legislation, indeed, came rather from within the Church than without. Ever since Whiston's *Primitive Christianity*, in 1710, and Dr Samuel Clarke's book on the Trinity, in 1715, the right (of the Church, and still more of the State) to establish doctrinal tests by authority had been widely questioned, and this was brought to a point by Archdeacon Blackburne in 1766, in his book entitled *The Confessional.* In 1772, a petition was presented to Parliament by a mass of professional men, including 250 clergymen of the Church, demanding relief from the obligation of subscription to the Articles and Liturgy on all entering the university or taking holy orders. It was rejected, but was followed by the more moderate proposal, that Dissenters at least should be no longer legally bound to subscribe the thirty-five and a half Articles. Twice this Bill passed the House of Commons, and twice it was rejected by the House of Lords. The debate of 1773

[1] Bishop Warburton's object, as stated by himself, is "to show the necessity and equity of an established religion and a test law, from the essence and end of civil society, upon the fundamental principles of the law of nature and nations." In order to make room for a free "alliance," he throws over the theories of Hooker and Hobbes, and falls back upon the more generally accepted view of Christendom, holding that the two societies have quite different objects, and are originally separate and independent. Their union, therefore, is by "free convention and mutual compact,"—each entering into it because of the advantages to its own side. (Thus the magistrate does not establish religion because it is true, for "the magistrate as such hath no right to determine which is the true religion," but because it is useful civilly.) And in entering into this free alliance each gives up something,—the Church gives up its independence, receiving in exchange endowment and coercive power, and "applying its utmost influence in the service of the State." When there are more religions than one, the State, in policy, "allies itself with the largest," making a test law against the others, "to keep them from hurting that which is established." The alliance is therefore not irrevocable,—*e.g.*, "when the Church loses to any considerable degree its superiority of extent, the alliance becomes void." The element of paradox, which Warburton seldom wants, is supplied by his argument, that rewarding men for morality not being one of the objects of civil government (which exists merely to give them security) can only come through future life and religion, and that civil government should *therefore* ally itself with religion, which does what itself cannot do.

was remarkable for the collision between Archbishop Drummond of York, who charged the Dissenters with "close ambition," and the great Chatham. The Earl replied that "their ambition is to keep close to the college of fishermen, not of cardinals. They contend for a spiritual creed and a spiritual worship. We have a Calvinistic creed, a popish liturgy, and an Arminian clergy. The Reformation has laid open the Scriptures to all; let not the bishops shut them again." But in 1779, the proposal, again brought forward, was passed, and Dissenters were from that time only called upon to accept "the Scriptures as the rule of my doctrine and practice."

By this time a greater age had commenced. The expansion of England into a world-wide empire, under the genius of the same Chatham, had been in vain resisted by France. America was already asserting its independence. The labours of Wesley and Whitefield had initiated a revival of religious feeling, which was now growing within the Establishment and without. On the Continent, religious toleration was steadily making way, and all things were preparing for a coming Revolution. It came too soon; and England regarded with a mixture of jealousy and fear the pretensions of France, her near neighbour and natural enemy, to a premature perfection in the region of civil rights. The protests of Burke against remoulding civil society (which never falls into a mould, because it is a growth), seemed justified by the speed with which France lapsed from its new mould of liberty and equality, under the military rule of Napoleon. The ambition of that great man supplied a more plausible ground for our national hostility; and Britain was never more "divided from the whole world" than during this period, when her vigour of arms abroad and literary genius at home were accompanied by an insular reaction in politics. In 1787 and in 1790 two attempts to repeal the Test Act were unsuccessful. The only direction in which an advance was made was in removing the disabilities of members of the Roman Catholic Church,—a body whose weakness abroad at this crisis began to relieve English Protestants from their

habitual apprehensions of it at home. Already, in 1778, the violent Act of King William, which made the Mass felony, and prevented Romanists from either inheriting or purchasing landed estate, had been repealed ; and Lord George Gordon's riots, which followed, did not prevent a farther advance. In 1771, a statute, passed with the approval of Mr. Pitt, relieved Catholics from the oaths of supremacy and against transubstantiation, and allowed them to practise as lawyers, etc., as well as to open their chapels. In Ireland the laws against Catholics had been more merciless than in England, and they were more despotically enforced. In 1778, however, the Irish legislature followed that of England in permitting Catholics to inherit land, and in 1782 they were allowed to purchase it, and their clergy to teach schools. In the same year there was a great meeting of the representatives of the Protestant corps of Irish Volunteers, at Dungannon. Their delegates resolved, with only two dissentients, that private judgment in matters of religion is a natural right, and that the recent relaxations in favour of their Catholic brethren were called for. The result was that in 1793 a farther Act of the Irish Parliament was passed, not only relieving Catholics in Ireland from penalties,—as an Act of the British Parliament of the same year did for Catholics in Scotland,—but giving them that elective franchise there which in Britain they were still refused. In 1800, the Union of the English and Irish legislatures was brought about ; and for the next thirty years the proposed repeal of the English Test Act was closely connected in politics with the "emancipation" of Catholics, who had been forbidden since 1678 to sit or vote in Parliament. In 1801, William Pitt resigned, George III. having refused to consider his measure for levelling up the Catholic and Protestant communions in Ireland, so as to give them an equal relation to the State. In 1807, the question was of mere emancipation, and the Grenville ministry resigned rather than pledge themselves for the future against it. Canning pressed the same object year after year. In 1812 it had a majority in the Commons, and by next year Unitarians had been relieved from some of their dis-

abilities, and Dissenting ministers generally from the Conventicle Acts. The great war now came to an end, and the country had leisure to devote itself again to the development of internal politics. The epoch of Reform had begun; and the continued passing of Acts of Indemnity for those who had broken the Test Acts, inevitably raised the question of their total abolition. The arguments against formally admitting all private citizens to office were twofold. It was said, on the one hand, that if you make Dissenters equal with their neighbours before the law, you would no longer be able to burden them with the support of a religious Establishment. It was said, on the other, that if you enfranchise Protestants, you must go farther, and extend the same rights to those who, as members of the Catholic Church, are bound to a foreign potentate and a doctrine of intolerance. Both arguments were in vain. The twofold question was destined to be settled even before that of parliamentary reform, and the Catholic branch of it preceded the other. In April 1829, the franchise was conferred, by a measure at the instance of its late opponents, the Duke of Wellington and Mr. Peel, on all Catholics in Great Britain and Ireland. But a greater change in theory had been made in the Bill of the previous year carried by Lord John Russell. By it the statutes were repealed which made receiving the sacrament in the parish church "a qualification for offices and employments," and the claims of all citizens were thus in a sense equalized before the law. Whatever future legislation may take place in Britain, the removal of religious restrictions on civil rights early in the present century may probably remain the most important step, in principle, which this history can show.

In passing these great legislative Acts, England had resumed her place in the development, arrested since her Revolution, of the question of Church and State. It was not a day too soon. In general recognition of the principles of religious liberty, the great States of the Continent were in advance of us, even during their present reaction after 1815. And now our emancipating

Acts were immediately followed abroad by the French Revolution of 1830, and at home by the Reform struggle of 1832. In every land there was a second wave of Liberalism, only less powerful than that which swept, in 1789, over the topmost towers of mediæval Europe. And in Britain it stirred for the first time in the popular mind the question of the duty of absolute religious equality. Many streams of influence, derived from the long political past, but dammed up during the previous generation, now converged upon this question, and their force was both increased and diffused by the unexampled passion for general knowledge and education which took possession of the minds of men. Fortunately the political impulse in Britain was also accompanied and preceded by a very general revival of religious feeling. The present century has witnessed a similar phenomenon even on the Continent. But in Britain it had commenced earlier, and in form it was strongly Puritan, pietist, and individual, everywhere nourishing a deep life of personal religion within varieties of church organization. Under this influence the political opposition to a State Church in Britain was nowhere, as it often has been abroad, simply anti-religious; and in the Dissenting Churches it now based itself, more even than in the days of the Commonwealth, upon conscientious scruples, and even upon doctrinal principle. But the same religious impulse strengthened and invigorated the State Churches themselves; for the members of them who were most ardently devoted to the Church's work were naturally impelled to defend the remaining bulwarks of that Church's privilege. But this also they were disposed to attempt on grounds of principle and conscience, and in result the whole political process, while delayed, was no doubt enriched and enlarged. Before going on, therefore, to deal with legislation, we may refer to two episodes, singularly parallel in time, one belonging to the State Church in England, and another to that in Scotland.

The **Oxford Movement**, as a public and recognisable one, took its rise in the question of Church and State. It is generally dated from the Assize Sermon preached by Keble in July 1833, under the

title of "National Apostasy," and Cardinal Newman's "Apologia" shows how the political influences presented themselves to his even then dominant intellect: "Great events were happening at home and abroad, which brought out into form and passionate expression the various beliefs which had gradually been winning their way into my mind. Shortly before, there had been a Revolution in France; . . . the Whigs had come into power; Lord Grey had told the bishops to set their house in order; . . . the vital question was, How were we to keep the Church from being liberalized?" No doubt, in a deeper view, the movement was not one of mere resistance or reaction. It was a fruit of Catholic principles suddenly becoming living and earnest; principles which, even while they had slumbered in the English Church, had been in themselves inconsistent with its relation of bondage to the State. But now, on both sides of the Tweed, men were to see an unexpected result, varying in either Church according to its constitution and environment, of the great positive impulse which during the last eighty years had been raising to a higher level our politics and religion. In England that impulse has had a general effect down to our own time, in invigorating the Church as a composite but organic whole,—the sacerdotal and clerical influence, however, gaining rapidly in strength, and the anomalies of the State connection becoming more apparent. But the ten years of Oxford had no immediate issue, other than the secession to Rome of some distinguished Churchmen. The less obvious effects have passed on to become part of a complex history not yet closed. In the north of the island, on the other hand, a popular and self-governing Church could fall back upon the people. And the same decade of movement resulted there in a crisis for Church and State which, while in some respects a mere parallel with famous epochs of the European past, was in others a new experiment, and an advance to the solution of the problem.

In Scotland the religious impulse which for exactly a hundred years had influenced congregations everywhere to "secede" from a too cold National Church, had now in 1833 so far affected that

Church itself as to produce an "evangelical majority" in its General Assembly. It at once set about the work of church reform, and especially of church extension; calling upon Parliament to aid, by granting new endowments for new congregations. Such a call was hopeless at such a date. In Scotland the passion for freedom from State interference with religion had grown powerful, under the more positive and more attractive name of Voluntaryism. In Edinburgh alone, in that very year 1833, no fewer than 846 citizens were prosecuted for refusing to pay the ecclesiastical tax already laid upon them, their sole defence being the religious and conscientious scruple. And now the question was as to new taxes for similar purposes—purposes in themselves very laudable, and even necessary. The most eloquent of all Scotsmen had devoted himself to urging the claim of the Church to national endowment for its new and admittedly much-needed charges. The Whig Government mentioned the claim in a Queen's Speech, and appointed a Commission of Inquiry. But the result of the investigation was an absolute refusal, even while maintaining the existing Establishment, to lay any new tax upon the people in order to give new grants to the new charges of the Church. The Assembly represented to Lord Melbourne that this was "abandoning so far the principle of an Establishment;" but the line drawn was well within the political conclusions already reached in our century by Britain, and it has not been receded from since on either side of politics. Dr. Chalmers and his coadjutors now turned to what in his lectures he had favourably distinguished from ordinary or congregational Voluntaryism, as Voluntaryism *ab extra* (*i.e.* Voluntaryism on a national scale), to do what the nation, as such, had refused; when a more startling blow fell upon them. The whole three measures of church expansion which the Church had by her own authority adopted, were declared by the law courts [1] to be incompetent, and

[1] The conflict between the Scottish Church courts and law courts was carried out with great ability on both sides, but with too much forgetfulness that the ground had been trodden in past ages and other lands. Thus it

that in every case, on the ground, alarming to northern Churchmen,

originated partly in the Church admitting to its presbyteries the pastors of the two hundred new congregations which it had raised; partly in its also welcoming to them the Original Secession ministers and others who had returned to the reviving Establishment. Church extension and church union were supposed to be the great aggressive duties of the new time, and the refusal of the Church's right to admit these classes by its own authority, was in the long run the immediate cause of the Protest and Disruption of 1843. But the third and earliest ground of quarrel was the old question of Patronage, which had broken out in so many ages, and now soon ran again into that form of Investiture which (p. 73) had caused the greatest conflict of Church and State the world has seen. On this question the Assembly from the first affected an attitude of defence rather than aggression; declaring in 1834 that it was a "fundamental law of the Church" that a minister should not be intruded against the will of the people. This gave occasion to the principle being laid down, especially by the House of Lords, that it was immaterial how fundamental or sacred the law of the Church might be held to be, if civil statute (in this case the statute of 1711) overruled it. What was decided in the other questions was rather the converse doctrine,—the incompetency of positive church legislation, unless statute authorized it. But the decisions as to all of them (in the *Auchterarder*, *Lethendy*, *Strathbogie*, *Culsalmond*, and *Stewarton* cases) were uniformly founded on the one general law, laid down with cumulative deliberation and emphasis, that the Kirk derives "all its powers" and "its whole authority" from Parliament and the laws of the realm; that it must submit to statute when statute regulates, however unfortunately, what is "strictly ecclesiastical;" and that the jurisdiction of the Church courts is derived from and defined by the State. It must be remembered that these Church courts have always had in Scotland a jurisdiction separate from the civil courts, and without any ordinary appeal to them, and that the Church *administration* of matters ecclesiastical has been always held final. It was this freedom of administration which gave countenance to the hope of the leaders of the Church, that it might also be held free in the cognate sphere of legislation. And when that hope was overthrown, there was still the chance—strongly founded upon, therefore, in the "Claim of Right" (to freedom) of 1842—that this separate jurisdiction of the Church courts might not be interfered with, at least to the effect of forcing them meantime to obey the civil statute against the unrepealed Church law. This interference, however, was precisely what was necessary to vindicate the supremacy of the Legislature over the Church; and it was accordingly carried out in every case of conflict of the two authorities,—but no farther. The court had no intention, and no need, to interfere with the ordinary Church jurisdiction or administration, and that accordingly remains since 1843 as it had been before,—a separate province, now no doubt held to be granted and defined by the State, but still maintained by it as before. What has really been settled is the general relation of the Church of Scotland to the British Parliament and to its legislation in Church matters.

that the Scottish Establishment was absolutely subject, even in matters ecclesiastical, to the State and its enactments. The Church petitioned the Crown and Legislature, protesting (in its Claim of Right of 1842) that rather than submit to this, it must give up its establishment. But it had very little hope that a doctrine so familiar to English ears would be really reversed. What it urged earnestly was that the Church should not be forced in the meantime (while some concordat or other measure of relief was being prepared) to acquiesce in these decisions by itself carrying them out *in sacris*. The courts, however, had condemned beforehand the idea of compact or concordat, as implying that very independence which the Church claimed, and Parliament (overriding the vote of a majority of the Scottish members) decided, on 7th March 1843, that the Church must first obey in its courts the existing law, and wait thereafter for such statutory relief as the State might or might not find itself disposed to give. The instantaneous result was the founding of the **Free Church**, with the whole Presbyterian machinery of assembly, synods, and presbyteries, home and foreign missions, colleges, and schools, all on a national scale. But it was its new and altruistic basis, the mutual support of all congregations from a central fund, which attracted chief attention as an experiment for the future. The experiment has been increasingly successful; for the contributions of this body, varying as represented by the following figures for the opening year of each decade—**1843**, £363,871; **1853**, £289,670; **1863**, £343,626; **1873**, £511,084; **1883**, £628,222—have during the forty years amounted to nearly seventeen millions. During the same period its 700 churches of 1843 have grown to 1014. Not less valuable, however, for the future have been the experiences during the same time of the other two Presbyterian bodies in Scotland. The Established Church, much the larger in numbers, retained the buildings erected by voluntary contributions under Dr. Chalmers' scheme, along with all the churches, manses, and schools; and, after the natural pause for adjustment, it recommenced systematic opera-

tions of church extension. Encouraged by a bequest from one member of half a million, this voluntary endowment side of the Church's operations has been carried on without intermission, and at the end of forty years the new parish churches amounted to 323. Meantime the third body, the **United Presbyterian Church**, which had a more sporadic and congregational origin in the previous century, and had ever since been gradually gathering together the fragments of Scottish dissent, took its present form and name upon a final union of 497 churches in 1847. And both before and after that date it has led the way for the other large bodies in Scotland in questions of constitution and creed, and especially in the revision of those principles of Church and State —admitted now to be false as well as intolerant—upon which the whole Presbyterian edifice was so far based in 1647 and 1690.

These Church movements were accompanied by a contemporary but independent agitation upon this subject in the world of theory and speculation. Dr. Chalmers was not the only man of the time whose history was destined to supplement or refute his early theoretical views. His lectures had chiefly urged the necessity of State endowment. **Mr. Gladstone**, then a rising statesman in London, thought this treatment inadequate, and in his *State in its relation to the Church* (1838), took up the other side, that of Establishment, which he based on the homage due to truth by the State as a corporate body with a conscience. But almost before Dr. Chalmers had conceived his "Sustentation Fund," Mr. Gladstone had begun to doubt (as his *Chapter of Autobiography* declares) how far, when the people have attained self-government, a majority is entitled to enforce upon a minority its own conscience as to truth. In addition, as appears from his *Letter on the Position of Laymen in the Church* in 1845, he had already a fear, on the side of the Church, that Establishment might in the future fetter Christianity in England more than it could assist it. Such fears recur inevitably to those who cling to the classical idea of the Church as Christian and originally independent of the State. But about this time a view of the Church of England became associated

with the name of Dr. Arnold, and afterwards with that of his biographer, Dean Stanley, which was originally suggested by Coleridge in his *Church and State* in 1830. The Church of England is, in Coleridge's view, a national and not a Christian institution; its object is not Christianity, or even religion, so much as civilisation: "It is unfortunately, at least improperly, called the Church,—a name which, in its best sense, is exclusively appropriate to the Church of Christ."[1] It is not *ecclesia*, which is the Church called out from the world or the State, but *enclesia* or clerisy; and the clerisy, or Church of England, "in its primary acceptation and original intention, comprehended the learned of all denominations, the sages and professors of all the liberal arts and sciences, as well as the theological." This view, which makes the Church of England merely the great educational institute of the nation, has a stronger foundation in English law than in European history; and the use of the same word, in senses so distinct, no doubt indicates a certain insular confusion of ideas which it tends also to increase.

All these special impulses and incidents, mingling with the general revival of religious feeling of the century on the one hand, and with the rationalistic and scientific spirit which encompassed it on the other, left traceable results in the history of legislation after the Reform of 1832. That legislation naturally addressed itself to the removal of exclusion on the one hand, and of privilege on the other. In 1833, the House of Commons, finding that it was still necessary for every legislator to take an oath

[1] See his chapter on the Idea of the National Church. In another on the Idea of the Christian Church, he explains that the latter is not national, and cannot be placed in the conjunction *Church and State* "without forfeiting the very name of Christian." It no doubt completes and strengthens the edifice of the State, but it does so without "interference or commixture, in the mere act of laying and securing its own foundations. And for these services the Church of Christ asks of the State neither wages nor dignities. She asks only protection, and to be let alone. . . . She asks nothing for her members as Christians which they are not already entitled to demand as citizens and subjects."

"on the true faith of a Christian," passed a Bill to relieve Jews from the disability. But it was thrown out in the House of Lords; and, though often brought in again, did not become part of our constitution till a quarter of a century later. Quakers, Moravians, and Separatists, however, were at once relieved. Among the privileges of Establishment in both England and Scotland, was that of solemnizing marriages. That restriction was in 1836 abolished, and a system gradually instituted by which registration before civil officials makes a valid marriage, while religious solemnization, by any ministers of religion, may be added if desired. A more onerous privilege of the Church, was the obligation on occupiers of land, whether dissenters or not, to pay tithes. By far the worst case of this, in 1833, was the Irish Establishment, and in that year the Legislature cut off at one stroke two Irish archbishoprics, and ten bishoprics, from what was then the United Church of England and Ireland. The Act, of course, alarmed members of the Church of England; and the further motion proposed by Mr. Ward, on 27th May 1834, to reduce the remaining Irish Church temporalities, on an express preamble that it is "the right of the State to regulate the distribution of Church property in such manner as Parliament may determine," resulted in the secession of Lord Stanley from the Whig Cabinet, and the dismissal of Lord Melbourne by King William. Mr. Peel succeeded; but on 30th March 1835, Lord John Russell carried against him a resolution to reconsider the question, "with the view of applying any surplus of the revenues not required for the spiritual care of its members, to the education of all classes of the people, without distinction of religious denomination." Tithe Bills followed this, both for England and Ireland, in which the clauses "appropriating" surplus revenues to other than Church purposes were keenly resisted, while diminutions and readjustment of the tithe by Parliament were after some difficulty conceded. In 1836 an Ecclesiastical Commission was incorporated, with large powers given it by Parliament for readjusting dioceses, and holding and dealing with

Church property. Under these it cut away, about 1840, a large number of the cathedral sinecures, and applied the revenues to the augmentation of small livings. The administrative changes in England and Ireland to some extent pacified the public conscience. Attention was also partly diverted from proper Church matters to the question of education, which, as we have seen, was formally raised by Lord John Russell. It has been energetically claimed, even in modern times, for the Catholic Church, that all education should be supplied by it and under its control. On the other hand, it has been held equally absolutely that all education should be supplied and controlled by the State. It has not always been remembered that the primary right and duty belongs to the individual parent, and that the Church teacher or State teacher to whom he sends his child is in some sense his delegate. Education in Great Britain had, in point of fact, in old days been almost everywhere undertaken by the Church or by the State through the agency of the one Church which it maintained and tolerated. But in Ireland, at least, elementary education had already been to some extent recognised as a duty to be directly discharged by the State. In 1830, when Lord Stanley was Secretary, and Dr. Whately Archbishop of Dublin, a Board of National Education was founded, the schools under which gave a literary and secular education to all the children attending them, Protestant and Catholic alike, with Bible-reading at separate hours for those who chose to be present. And now, soon after Queen Victoria's accession in 1837, Lord John Russell and his colleagues attempted to make a beginning in England. He succeeded in getting educational funds entrusted to a committee of the Privy Council for Education, which has ever since administered them ; and, in 1839, proposed to have normal schools—*i.e.* schools for the training of teachers of elementary education—established by the State on an unsectarian footing. The bishops protested, in conjunction with the House of Lords, that elementary as well as higher teaching had been entrusted to the Church of England, and should be left in its care. The result was the gradual substitution, instead

of direct education by the English State, of a system of "grants in aid" of the existing education, no matter by whom that might be provided,—the grants being given on reports by Government inspectors that the teaching satisfied educational tests, or yielded certain numerical results, and a "conscience clause" being introduced, to enable children who objected to the religious teaching to decline attendance. In the year 1840, Peel took up the higher education in Ireland, and to balance Trinity College, Dublin (a largely endowed and Protestant institution), instituted three open and undenominational ones. By this time, however, the policy of the Catholic Church on education had been declared, and the Queen's Colleges were rejected as "godless." But Peel went farther, and endowed the Theological Training College of the Catholic Church at Maynooth. Just as this may have been, in view of the large sums then spent in Ireland on Protestant theology and the Church, it excited keen feeling and protest in Britain. And these never quite ceased till, in the following generation, the Protestant Establishment in Ireland, the Presbyterian Regium Donum, and the Catholic endowment were put an end to by Parliament on the same day.

The middle of the century saw on the Continent a new upheaval of Church and State relations, as of all others. It left Britain undisturbed. But an Act which passed quietly through Parliament in the year 1850 laid a formal foundation for what has been called **Greater Britain**, and raised the question what course the world-wide empire, unfettered by the past, would take in the questions of the Church. The great British dependencies in America, Australia, and Africa commenced with being colonies simply governed by the Crown. But during the present century these Crown colonies attained a second step, that of having representative Assemblies. For some time, in most cases, they had this representation without having self-government, their parliaments being simply consultative, and without power to dismiss one Ministry or call another. But about this time, and under powers

like those given to Australia by the above Act, the Canadian and African as well as Australasian colonies had begun to attain a third stage in the powers of local self-government. In this latest development, while they all still remain united under the British Crown, each of those young empires has become independent in the management of its own affairs. And their becoming so at once raised a question as to the future of the English race in the matter of Church and State. That they would adopt the principle of religious equality before the law, and would reject any right on the part of the State to select one religion rather than another for support, was already certain. That principle had now been adopted not only by the American Union, but by all the greater States of Europe, with the exception of Russia, and perhaps of Great Britain. But some of the States of Europe, unlike America, were now attempting to carry out the principle of equality by supporting all religions, on a principle of concurrent endowment. It would have been unfortunate if this alternative had not been deliberately presented to these great English communities also. In point of fact, not a few of them had to deal with it at the moment when they all began to girdle the globe as self-governing commonwealths. In Australia, at an early date, the practice had grown up of adding State contributions to the salaries and to the building funds of the English, Catholic, Presbyterian, and Wesleyan bodies indiscriminately. It was soon objected to, as inexpedient and unfair; and now it may be said that throughout that great range of colonization, there is no State Church, and no State aid to religion. The change was effected in a generous spirit; and in many cases, lands which had formerly been set apart for Church revenues were handed over as a gift, while life-interests were generally continued. Queensland attained responsible government in 1859, and made this ecclesiastical change in 1861. Victoria became self-governing in 1854, and paid £50,000 annually to different denominations down to 1875, when it was discontinued. New South Wales took the same position about the same time, and long after 1870 was still

paying £10,000 annually to incumbents, whose successors will be supported by the Church itself. Outside Australia, New Zealand received power of independent government in 1852; and although the Church of England was originally recognised in Canterbury, and the Free Church of Scotland in Otago, there is now no State Church, and no State aid given to any Church. The Cape Colony was made independent by Acts of 1865 and 1872. There is no State Church; and while a grant has been made annually for "religious worship" of Presbyterians, Episcopalians, and Catholics, an Act of 1875 provides for its gradual withdrawal. In Canada, united and made independent in 1840, and indeed in the whole of British North America, there is no State Church; though in Lower Canada there are provisions in favour of Roman Catholic education, which were guaranteed to the Province ever since the days of possession by the French. Nor are the lessons of this very remarkable history confined to these important States, all now self-governing. In India there is indeed, since 1813, a slender establishment of five bishops, and 160 chaplains, for the use of the English and garrison population; but it is not permitted to act as a missionary institute; and that enormous dependency, with its vast varieties of ancient and modern religion, is left to a universally protected freedom. But besides India, there are innumerable possessions and dependencies of the British Crown scattered over the world, and not yet invested with self-governing powers. These also have their future; and in the matter of Church and State, what is that future to be? "In most of the Crown colonies disestablishment of the Church of England, or withdrawal of State aid in the case of those in which concurrent endowment prevailed, has been brought about since 1868. In no case has any step been taken that leads the other way, while in all the colonies where State aid has ceased, religion prospers."[1] It would appear, therefore, that the people which more than any other obeys in modern times the ancient precept, "Go ye into all the world," has also in doing

[1] Dilke's *Problems of Greater Britain*, 1890.

so substantially accepted the conditions under which the problem was presented to early Christianity.

The middle of our century, which saw this great career definitely opened to the British empire, was marked at home by some embarrassments to Protestantism as established in England. The Liberation Society was founded, on principles which had been thought out by Mr. Coventry Dick in Scotland, and Mr. Miall in England. A clergyman, named Gorham, was rejected by a High Church bishop as heretical on the doctrine of baptismal regeneration. But by the Privy Council, in 1850, the bishop's view as to doctrine was negatived, and his decision reversed, this action of the lay court, though in a matter peculiarly ecclesiastical, being approved by popular feeling. That feeling was in the same year roused to great excitement by a Papal Bull "re-establishing in the kingdom of England a hierarchy of bishops." Lord John Russell brought in a Bill to forbid the new bishops assuming territorial titles. But the measure, doubtful from the first in principle, was found useless in practice, and was afterwards repealed. A more legitimate support to the Church was the consent given in 1852, for the first time for a century and a half, to the meetings of Convocation. Its annual gatherings, however, being Convocations only "of the clergy," have had little influence with the laity, more being done in that direction by the unofficial and voluntary "congresses" of the Church, begun a few years later. One of the first utterances of Convocation, indeed—its condemnation of *Essays and Reviews*—came into collision with a second judgment of the Privy Council as to the doctrine of the Church. Similar decisions of the lay tribunal as to the ritual of the Church, followed in 1874 by an Act of Parliament for the Regulation of Public Worship, have illustrated in that equally delicate department, the results of lodging, outside the Church, the authority to legislate for it and to govern it.

Meantime a certain legislative liberation even at home was

slowly proceeded with. In 1853, the tests which in the universities of Scotland bound non-theological professors, and in the universities of England bound all matriculated students, to the respective Established Churches, were done away with. An important step, which had been anticipated in Greater Britain all round the world, was taken in 1857 by the Act legalizing divorce. Convocation objected to this measure, not in substance only, but because by it the jurisdiction in matters of marriages and wills, which had hitherto been entrusted to the Church by the State, was now handed over to a civil tribunal. In this as in similar Bills, however, clauses were introduced by the more far-seeing friends of the Church, providing that its ministers shall not be bound to take an active part themselves in solemnizations as to which the Church and the nation may differ in opinion. In 1858, the long-delayed Jewish Relief Measure was at last passed, and though it was only in the form of an Act enabling either House of Parliament to modify its oath by a resolution, it has been found sufficient. And in 1861 the teachers under the Scottish parochial system were liberated from the test, doctrinal and ecclesiastical, which had been bound upon them by the Revolution Settlement and the Treaty of Union. But with this enactment a pause in such legislation ensued, which lasted until, on the death of Lord Palmerston, and the resignation of Lord Russell in 1866, political matters again took a leap in advance.

These pauses and advances in political movement by no means coincided with the progress of any theoretical views on either side. Theories, indeed, especially on the nature and functions of the State, have never had much influence in England. Yet such views, and even their extreme forms, were represented in this later part of our century as before. That which gives the State a minimum of right against the individual, had found consistent expression in the later works of the evolutionist philosopher, Herbert Spencer. The practical importance of leaning to this side had been eloquently urged in the *Liberty* and other works of John Stuart Mill. The opposite theory, in a country

where the "omnipotence of Parliament" had been traditional, was sure to be represented; but it has only been influential latterly in a democratic and socialist form, and where it has claimed power rather over the property of the individual than his opinions. The maintenance of an absolute right on the part of the State to inculcate and suppress opinion, has indeed in later years always produced the effect of paradox.[1] But English politics, with its long past of compromise, has produced wavering reflections in our modern school of history, as well as in popular sentiment. In both, men have often conceded unlimited power to the State,—but they have at the same time held that it has no right to use it. They have argued that dogma or religious conviction suggests intolerance, and indeed authorizes it,—but they reserve the highest admiration for the man who respects both his own conscience and that of others. On the whole, however, during the century in which the doctrine of toleration has been formally accepted into the constitutions of continental Europe, it has in the popular mind in Britain been more than ever widely diffused, though weakly defined.

The election of 1866 broke the slumber, and Mr. Disraeli took his stand on "our constitution in Church and State." A Conservative majority was returned, but the unexpected result was the proposal by the Government of a large extension of the franchise. It was passed; and the result of this again was that the new electorate demanded, about the year 1870, important legislative measures affecting Church and State. And as 1870 was an epoch marked also by a memorable crisis on the Continent of Europe, we may close with it our history of constitutional change at home.

Some of the measures which group themselves about the year 1870 referred to education, higher and lower, and had the usual indirect relation to Church questions. During the

[1] For the ablest argument of this kind in our language, see Mr. Justice Stephen's book upon, or rather against, *Liberty, Equality, and Fraternity* London, 1874.

whole of that year, the Bill to abolish tests in Oxford and Cambridge, passed by the Commons, was rejected by the Lords. But as ultimately accepted, it liberated all fellows and holders not only of lay degrees, but of lay offices in the colleges, as well as in the two Universities, from the obligations laid upon them in the past to sign formularies of faith and to attend the services of the Church. More complicated provisions were made in Acts as to elementary education, in Scotland and in England. In Scotland the existing parochial and future public schools were wholly separated from the traditional care of the Church, and put under that of an elected school board in each parish. The school boards were to be "at liberty" to give instruction in religion to "children whose parents do not object to the instruction so given;" and while voluntary and denominational schools were still aided (in respect of their secular teaching only, and subject to a conscience clause), new public schools were to be set up wherever education did not already sufficiently exist, and the education of all children was made compulsory. The English Education Act passed (1870) before the other (1872). It also demanded the teaching of all children somewhere and somehow, and provided public schools in places where no primary education had hitherto been given. But it transferred none of the great mass of schools which had been under the care of the Church to that of the ratepayers. These remained denominational, and with a large increase of grants. But the grants were only for secular education, and always under a conscience clause, and in the public or rate-supported schools it was provided that no catechisms of religion or distinctive dogmatic formularies were to be taught. A more direct approach to the proper Church question was made in the Church Rates Bill, a measure debated ever since 1833, which Mr. Gladstone at last carried for England in a form accepted by Mr. Bright. It retained the machinery of vestries, and allowed them to raise voluntary rates. But power to enforce rates on objectors —and of course *their* power to administer the money so

raised—was henceforth to cease. This Bill, so significant in principle, passed almost without opposition in 1868.

But a great crisis arose at the same time as to the Church in Ireland. The occasion was the alternative apparently now presented to the Parliament at home, with regard to an old Establishment, which we have seen already dealt with by British Legislatures abroad, when new ones were brought forward to be endowed. On the 10th March 1868, Mr. Disraeli's Irish Secretary, referring to the admitted scandal of Church relations in Ireland, deprecated hasty measures in that country, on the ground that, even though policy and justice might demand an equalization of Church establishments, it was not by confiscation, but by elevation and restoration, that such a result should be attained. This vague proposal of concurrent endowment was met by a declaration by Mr. Gladstone, that the Liberal party was satisfied that the Irish Church should "cease to exist as an establishment," and justice should be done all round. The country was appealed to, Mr. Disraeli saying that "the purpose is now avowed of destroying that sacred union between Church and State which has hitherto been the chief means of our civilisation, and is the only security for our religious liberty."

The Liberals had a majority, and Mr. Gladstone's resulting measure for the first time brought home to the imagination of the world that destroying a Church's union with the State did not mean destroying its proper and legitimate powers. In the original draft of the Bill, those personally interested in the Episcopal Church, as well as in the now discontinued Regium Donum and grant to Maynooth, were lavishly compensated,—by round sums, too, to be handed to the respective corporate bodies. But by the House of Lords' amendments, partly acquiesced in by the Commons, a still farther amount of national property was left in the hands of the new Church body, which also received back its fabrics and private endowments. It was assumed at first that the disestablished Church must hereafter exist under some constitution to be fixed for it

by Parliament. But this blunder also the Prime Minister avoided, by inviting it to gather itself together for the purpose of framing its own constitution and electing its representative body. The precedent for this in his mind was probably the transition to self-government which was effected at the Revolution by the Episcopal Church in America. But it was that of Scotland in 1843 which was instead instanced to Parliament, as proving that the disestablishment of a Church might be "like the launch of some goodly ship, which, constructed upon the shore," yet glides without loss of equilibrium into its proper element. Like most important changes in British history, this legislation was urged in Parliament, not upon general principles, which may be applied in other or in all cases, but upon the special circumstances dealt with. Yet the Act itself spoke with a stronger voice than its great advocate. Before 1870 many intelligent men had an honest apprehension that a Church deprived of State support must cease either to prosper or to exist. Since that date there has been a general conviction that a Church, no matter in what form organised, has the power of supporting itself. Its disestablishment, no doubt, puts to its members the question whether they value it sufficiently to accept, as their fellow-citizens under equal laws do, the burden of mutual association—perhaps upon a great scale.

## CHAPTER XII.

### EUROPE FROM 1815 TO 1870.

It was by no means certain, when the nineteenth century commenced, that it would before its close accept the principles underlying the American and European Revolution. The time was one of general and justifiable reaction. The right to liberty and equality before the law, however sacred, was an abstraction which had not been based upon its religious, nor until recently,[1] upon any adequate philosophical foundation. And practically it had been pressed upon the acceptance of communities which had not learned to use it, and had not even desired to do so. Even before the restoration of the old order in 1815, the historical school of thinkers, represented in politics by Burke, and in law by Hugo and Savigny, had begun to teach men that the rights of a people—or at least the wise exercise of those rights—must depend on its actual past and present, and not on any maxim common to all mankind. And the reaction in the first instance went much further. The authority of the past was

[1] The philosophy of Locke, not without powerful moral elements, had run itself down to the universal scepticism of Hume. Not till 1787 was published the ethical treatise of Kant, which sets before mankind as aim the development of the individual through moral freedom, and before the State the one duty of maintaining that freedom in the person of every one of its members, against aggression by others. The immediate influence of such views is seen in books like William von Humboldt's *On the Sphere and Duties of Government*, written in 1791, but published only in 1852. Of course the limitation by such theories of the sphere and duties of the State throws a correspondingly huge amount of duty upon society generally,—to be discharged otherwise than by coercion.

made absolute, under the name of legitimacy; and, as Chateaubriand said, there was a legitimacy to be dealt with in the religious sphere also. Under the influence of thinkers like Baader and Müller in Germany, and Bonald and De Maistre in France, and of one great writer in the Scottish capital, a romanticism was created which illumined the mediæval and feudal past. Everywhere there was new religious feeling, but it ran into the old forms. The union of the most powerful of the continental sovereigns in restoring order, was popularly known as the Holy Alliance. Among the first of the powers restored was the pope, and among his first acts in 1814, was the re-establishment "in all countries" of the Order of Jesuits, solemnly abolished for ever by his predecessor, Clement XIV. With them were set up at home the congregations of the Index and the Inquisition, and negotiations were at once opened with Catholic and other powers.

Yet these negotiations, the usual object of which was now, as before, the passing of a concordat, encountered difficulties which showed that a new world of civil and religious freedom had opened upon men. In France, the existing concordat of Napoleon only recognised Catholicism as the religion of "a majority of Frenchmen," while other Churches received along with it salaries from the State. The Bourbons did not venture to propose that the Catholic Church should receive the old endowments, or should be exclusively salaried. But Louis XVIII. had taken a step to re-establishment, by declaring, in the charter of 1814, that this religion was "the religion of the State;" and in 1817 he concluded an agreement with the pope for a new concordat, to be in form not unlike that of Francis I., which should carry out in detail the clerical views. But his ministers refused to present it to the chambers, without a Bill to confirm at the same time the provincial liberties of the Gallican Church; and as the result the whole project was abandoned. Spain and Sardinia passed concordats, and restored the Jesuits; and a sudden explosion of Liberalism in the former country, followed

by the abolition of the monastic orders and the application of their endowments for the national debt, was put down by the French army, in spite of Britain's protest through Canning. Naples restored its privileges to the Catholic faith, but refused the old homage to the pope as suzerain. Lombardy still maintained its civil tribunals against the clergy; and Tuscany not only did so, but refused to give back most of the State property to the religious corporations. In Germany, as in France, no one proposed to restore to the Catholic Church its territorial independence. Bavaria, indeed, in a concordat concluded in 1817 by its ambassador at Rome, gave to that Church all her privileges "according to the Canon Law;" but this was neutralized immediately by a constitutional Act, giving liberty of conscience and of worship to all subjects, and equal rights to the three recognised religions. Austria refused to go as far even as the South German States. Metternich, then at the helm, objected alike to the Jesuits and the concordat, and no change was made in the meantime on the old legislation of Joseph. On the other hand, some of the Protestant States, which had acquired accessions of Catholic subjects, took the questionable step of making, if not formal concordats, at least arrangements, not with them, but with the pope. Thus in Prussia, a Papal Bull, reconstructing the Catholic dioceses and redistributing their endowments (from the State), received from the king "royal approval and sanction," to make it a "binding statute." The same took place in Hanover; while the king of the Netherlands, though a Protestant, even agreed to a concordat. These negotiations, which stretched intermittently over the space between the Restoration of 1815 and the Revolution of 1830, indicate a revival of Ultramontanism, in the sense of a more general dependence of particular Catholic Churches upon the pope. The Revolution had in fact unconsciously displaced nationalism as a possible basis for an exclusive Church. In Germany, there was a slow reaction against territorialism and the principles of Grotius and Febronius; while Wessenberg and others failed

on the other side in their patriotic endeavour to set up a German Catholic Church. In France, there was a steadfast attack kept up by the clerical party against the old Gallicanism, at least in so far as it implied a right in the State to control the Church, or to isolate it from the centre of faith. Yet unfortunately this demand, for freedom for their own faith, was accompanied all through the reign of Louis XVIII. by a pressure against the concession of the same rights to others, and against civil freedom generally. And on the accession of Charles X. in 1824, the smouldering forces throughout Europe prepared, as usual, to find vent in Paris. One of the chief questions was education, which the Jesuits, who by law were excluded from France, were more and more getting into their own hands. The ministry which connived at them was overthrown, and its successors, unwillingly called to office by the king, but, strange to say, supported by a Papal Bull, gave control over ecclesiastical schools to the university, and excluded all illegal societies from the right of teaching. The king dismissed his Cabinet, dissolved the Chambers, and soon issued those illegal ordinances which resulted in the "Revolution of the Three Days" of July 1830.

And upon the new Revolution followed that revision of the Constitutional Charter to which France, amid all its subsequent changes, has hitherto substantially adhered. The clause making the Catholic religion "the religion of the State" was struck out. There remained only the two provisions :—

"All Frenchmen have equal freedom in the profession of their religion, and each receives for his worship (*culte*) the same protection.

"The ministers of the Catholic Apostolic and Roman religion, professed by the majority of Frenchmen, and those of other Christian worships, receive payments from the public treasury."[1]

[1] The additional clause—"And no others do"—was struck out by the Chambers, to make room for the equal rights of Jewish citizens, who (as well as Mahometans in Algiers) are now salaried concurrently with the Catholic and Protestant Churches.

An immense impulse towards self-government and freedom passed over Europe. Great Britain, as we have seen, took its first deliberate step forward since 1689; and at the other extremity the Italian Legations and Marches were filled with insurgent patriots, who demanded that the new pope, Gregory XVI., should renounce his temporal sovereignty. The Spanish queen regent, pressed by the Carlist Legitimists, and acting under the advice of Louis Philippe, instituted a constitutional government, which in 1836 carried out what had been already attempted in 1812 and 1820,—the secularisation for State purposes of the property of the Church. In Belgium, then united with Holland, the Catholic party were dissatisfied with that union and with the results of the concordat, and they had recently agreed to work along with the Liberal politicians on the modern principles of freedom. "The Catholics accepted the liberty of the press, the independence of the judicature, the responsibility of ministers. The Liberals accepted the independence of the Church from the State, and freedom of education."[1] The combined opposition thus formed was pressing upon the Government, when the insurrection in Paris roused national feeling here also, and, after some fighting and negotiation, Belgium was declared a separate country from Holland, under the reign of Leopold, and with the still-subsisting Constitution of 1831. That Constitution is remarkable as one of perfect freedom (with proportional endowment) to all communions, and yet as being willingly accepted by the Catholics, in a country where they outnumber the Protestants by more than a hundred to one. It includes express liberty of religion, of public worship and of abstaining from worship, of observing or not observing the days of rest, liberty of nominating and installing Church officials, and of communication between them and their superiors, liberty of teaching and education, liberty of the press, of public meeting, of petition, and of association; and in all these regions its freedom from bureaucratic interference is more the atmosphere of England than that of either France or Germany.

[1] Geffcken, ii. 113.

The question was thus at once raised, Is there any reason why the Catholic Church should not everywhere and authoritatively accept the same principles of equal liberty and toleration, and claim for itself only the same position of successful independence?

The question was about to be put and answered in the most striking way. Among the champions in France of the new Catholicism against the restraints both of old Gallican nationalism and of the recent concordat, none was more distinguished than the Abbé de Lamennais. He had been recently joined by two younger men, both of them filled with the idea that all which the Church ought to demand from the State was freedom. M. de Montalembert had in his seventeenth year taken for his motto, "God and liberty;" and in later life, as champion of the right freely to educate the young, he described himself as "schoolmaster and peer of France." Lacordaire was a priest, or, as he put it, "the minister of One who is a foreigner in no country;" and finding that French unbelievers now named the bishops, and restricted the worship of the Church salaried by the nation, he urged his brethren rather to "take up your outraged God, and bear Him to some humble hut, vowing not to expose Him henceforth to the insults of State temples." All three, in the journal **L'Avenir**, and afterwards in the "Society for the Defence of Religious Liberty," urged continually that the true Church, refusing recognition and payment by the State as of one religion among others, should appeal to an age of freemen, on the ground of free thought, free conscience, and a free press. The Revolution of July seemed to favour this basing of Church rights on democratic principles; and the Belgian Constitution now carried it out in victorious detail. Accordingly the three Frenchmen, finding a certain opposition to their programme even among the clergy of France, referred it to the newly-elected pope, and themselves carried their appeal to Rome. "The pilgrims of liberty" were kindly received by Gregory XVI., but ordered to return and await an authoritative answer. On 18th September 1832 appeared his encyclical, which, though couched in the rhetorical tone

affected by the Roman Chancery, covered the whole ground referred to it from Paris. It condemned that "error or rather madness which claims for every man liberty of conscience." This absurdity as to conscience is led up to by the prevalent and disastrous "liberty of opinions, from which some have the audacity to allege that religion itself may derive advantage." "Nor do we hope better things, for religion or government, from the aspirations of those who would sever the Church from the throne, and break the union between the civil and the sacerdotal power." "It is that very union which the lovers of a shameless liberty dread." The shock was severe to those immediately concerned: Lamennais broke with Catholicism altogether, and the other two silently submitted. But the incident threw light upon the progress of the general question. It suggested powerfully the approaching divergence between the lay Catholic populations of Europe, in whose constitution and laws toleration was to be a fundamental principle, and the clerical doctrine that religion is to be imposed by authority, not of the Church only, but of the State.

That divergence and contrast have become more marked as the century has since then unfolded itself. This does not mean that Catholicism is irreconcilable with democracy. It has not been so in our age, or in any age. The leading Catholic theologians deal with government in the abstract as the ordinance of God, irrespective of whether its form be republican or autocratic. In the great revival and counter-reformation of the Catholic Church in the sixteenth and seventeenth centuries, many of its most distinguished defenders, especially among the Jesuits, appealed broadly and powerfully to the people against kingly and aristocratic power. And one form of democracy—*imperialism*, in which the people makes over and entrusts all its own powers to one head—may be said to have for Catholicism a natural affinity and attraction. In our own time, accordingly, the Church has found no serious difficulty in adapting itself to populations filled with democratic feeling, such as France, Ireland, or America

Its adherents are there permitted, and encouraged, to use the principles of freedom to the uttermost, in advocating the common principles of Christianity and the special claims of the Church. And many among them do so from time to time with the same ardour of expectation which led the "pilgrims of liberty" from Paris. But the authoritative utterances of the Church since that date have, as we shall see, confirmed the position which it took in 1832.[1]

Yet the energies of the Catholic Church have during subsequent years been addressed not so much to directly cultivating the State, or to suppressing false beliefs, as to what have been called mixed questions—questions into which religion enters inevitably, but indirectly, and in which the Church has been sometimes rather on the defensive. One of these, as we have already seen, is **Education**. The Church claims an interest in elementary education, for the young must be trained, if trained at all, in religion; and in the higher education, for of that theology is an eminent part. But the great Catholic powers have in this century formally refused to entertain the exclusive claim to control education which their Church naturally makes, and which in the Middle Age was conceded. They have not only refused this, but they have been pressed on their own side by a sense of obligation lying on the State to educate the child in secular things, at least until he attains the full status of citizen. These considerations, all of them legitimate, are difficult to reconcile

[1] Cardinal Manning, on 21st September 1876, when asked if English Catholics approved of the suppression of Protestant worship in Spain, proposed to solve the difficulty by laying down the following "principles:"—

"1. So long as the unity of a people in faith and worship exists unbroken, it is the duty of such a people to preserve it from being broken, by public law.

"2. When once that unity is broken up by the religious conflicts of a people, no civil laws can restore unity, which can be restored only as it was created,—that is, by the obedience of faith."

"There is therefore," he concludes, "no parallel between Spain and England, nor between a people united in one faith and a people unhappily and hopelessly divided."

and adjust even under a *régime* of absolute civil justice and equality; while any solution is hopeless so long as there is a disposition to favour one Church above others because it is in the majority, or to favour it less than others because it makes more stringent spiritual claims. The claim of the State to control all education can never be allowed, so far as to let it either mould or suppress the teaching by those who are not State officials,—certainly not their religious teaching as members of the Church,—or to withdraw from parents their right to give what they think the best form of education to their children. Nor is it fair in the State to use the money taken from the people as a whole, to support a public education in which the children of all faiths may not reasonably and fairly be expected to share. On the other hand, the claim of the Church to control all education, quite intelligible when that education is looked at as a whole with moral and spiritual elements interfused, may be stated in a form inconsistent with the liberty which the great majority even of its members have desired. It has often been so in this century, when the teaching of those to whom parents or the State have merely delegated instruction in branches strictly secular, has been forbidden by Catholic authority. On both sides a conflict full of difficulty has existed on this subject in almost every country of Europe,—repeated, with instructive variations, in America and our own land. The other great intermediate subject on which there has been contest and conflict is that of Marriage. Here also Europe had in former ages adopted and sanctioned the whole law of the Church; while in our own time even the chief Catholic populations have declined to do so. But on this subject the law of modern Europe has been able to devise a plan which meets most of the difficulties, though not all. It has recognised "civil marriage" as a universal human ordinance existing previous to the Church and outside it, and as a relation which the State is bound to recognise and maintain, with all its necessary results, such as the legitimacy of children and their succession. For this purpose almost every nation has instituted some form of regular

registration, compliance with which makes or evidences the marriage. But to this may be *added* any form of religious celebration; and this a Church, or those of its members who accept marriage as a sacrament, may recognise as the real transaction, and they may even, for their own purposes, refuse to recognise any other. That so completely meets difficulties as to form, that it is likely to be accepted as the universal solution, though it is in truth a universal separation of the Church law from that of the State. This comes out more sharply when substantive as well as formal differences exist,—as where the State allows in some cases marriage, and in others divorce or separation, while the Church forbids it. But here, too, the solution of what would otherwise be a painful and inextricable knot, has already been found. The State, for civil purposes, follows its own rules and definitions. The Church, and every Church, is free for its own purposes to follow its own, and those who have become members of it may hold themselves bound in conscience by its ruling. There will still remain friction and difficulty, as in all human affairs under the most ideal rules. But early in the century it already appeared that there was no difficulty which any other plan would not immensely increase, even in the relation to the great States of Europe of the Catholic or Latin Church.

In the continental Protestantism of this century the central position is occupied by Germany. As we have seen, it had been deeply influenced by the common principles of the Revolution, but the reaction and rising of the Fatherland against Napoleon in 1814 added a specifically national impulse. The nation shared, too, in the general religious revival of the century, but it took effect chiefly in stimulating, and to some slight effect moulding, the philosophical and theological enquiries of which the universities were the centre. Among the ruling houses (now, since the secularization of 1801, predominantly Protestant) Prussia took the lead; and in 1817, Frederick William III. called upon his Lutheran and "Reformed" subjects to celebrate the jubilee of

the Reformation by at length uniting in one German Church. The project (which did not involve the abandoning of their old confessions, but merely the uniting of those holding them in one organisation and worship) was at first favourably received; and a commission of the clergy proposed combining it with the formation of a presbytery of pastor and laymen in each parish, with synods for the department. This proposal for local church government was discouraged by the king's ministers, as a step to democracy; and the only place where it was carried out was in Prussia on the Rhine, where, accordingly, the union was happily effected. Elsewhere the king was reduced to pressing it by his mere authority as sovereign and chief bishop,—an exercise of his rights which was doubted even by friendly theologians, like Schleiermacher,[1] while it was keenly resisted by many of the old Lutherans. The resulting suffering lasted till 1840, when Frederick William IV. proclaimed a toleration to Lutherans who chose to worship outside the United Church. In other States of Germany the union was more smoothly carried out, a presbyterian or congregationally representative system being introduced in some of them, while in some the old Augsburg and Heidelberg Confessions were modified or suspended in favour of a more general bond of union. In Prussia, the new king objected to the theory as well as practice of his Church supremacy,—State and Church in his view being "like fish and bird, with dominions as different as water and air." But he combined with this a distaste for representative government in the Church as elsewhere, which frustrated his plans for restoring an independent episcopacy, and exposed him throughout his reign to the suspicion of Liberals. Liberalism had by this time gradually attained to an influence much greater than it had even

[1] Schleiermacher, the founder of the modern or "reconciliation" theology of Germany, leaned in Church and State matters to the gradual extrication of the Church from its dependent position on the civil power. By this time, however, the philosophy of Hegel had become powerful, and under its lead many thinkers had gone back from Kant to something like the old pagan idea "that man exists for the State, and not the State for man."

in 1830; and the sudden Revolution of 1848, though followed everywhere by strong reaction, left permanent records of the new advance in the Church and State constitutions of Europe.

In France, indeed, the Revolution of 1848 made little change. Louis Philippe's government had since 1830 maintained the rights of conscience, and the new Constitution merely repeated the guarantee of freedom to all religions, with payments to those "recognised, or which may be recognised." But in the north of Europe the change was much greater. Here the principle which had governed since the Reformation,—that the region must regulate the religion,—was for the first time formally withdrawn. The demand of Liberalism was that the State should abandon its old duty of guardianship and supervision of religion, recognised even by the *Landrecht*, should acknowledge the right of free association, and, instead of continuing to apply to it a system of *preventive* police, should be content with its ordinary power of remedying any abuses of that right which might actually emerge. Even the Roman Catholic bishops, in their meeting at Wurtzburg in October 1848, resolved that "for the fulfilment of her divine mission the Catholic Church claims nothing but the fullest liberty and independence." Accordingly, most States of Germany, even after the first rush of the Revolution was repressed by military force, followed on this subject the leading of the National Assembly at Frankfurt. We may take as the most important example the **Prussian Constitutional Charter of 1850.** It provides—

"Sec. 12. The freedom of religious creed, and the rights of forming religious societies and of celebrating worship in public or private edifices, are recognised. The enjoyment of civil and political rights by the individual is independent of his religion," etc.

The next clauses, however, provide that "the Christian faith lies at the foundation of the institutions of the State relating to religion," and indicate that among the religious associations all equally recognised, there are *two* with the status of public corporations, named in the section following :

"15. The Evangelical Church and the Roman Catholic Church, like every other religious society, order and govern their own affairs independently. They have the possession and the use of the institutions, foundations, and money set apart for their purposes of worship, instruction, and charity."

"16. The relations of religious societies with their superiors are unimpeded, the publication of pastoral letters being under the same law as any other publication."

Sec. 18 announces that the right of the State to nominate to Church offices (except in the army and other public departments) is abandoned; provision for the patronage to be afterwards made.

The German States generally moved along with Prussia in enacting these great principles, which remained there unchanged in their form down to the epoch with which this book closes,—the year when the modern German empire took its birth, and when the constitutional rules just quoted became the law of that empire. One episode of change subsequent to that date is so instructive, that, though it is outside our chronological limits, it must find place here in a note.[1] Meantime we observe that the impulse of

[1] Soon after the new German empire was founded in 1870, a contest arose in Prussia between the Catholic party and Bismarck as minister. The Catholic department of the Ministry of Worship was suppressed; the Old Catholics were recognised along with their opponents; the Jesuits were expelled from the kingdom; and the civil form was declared necessary in every case of marriage. The Church persisted, and in May 1873, farther enactments, known as the "**May laws**," were carried through by **Dr. Falk**, which applied in terms to both recognised Churches. The leading Falk law provided that "ecclesiastical functions in either of the Christian Churches can only be conferred upon a German who has carried on his scientific studies according to the provisions of this enactment, and whose nomination has not been objected to by the Government." The German gymnasia and universities were thus made compulsory, and, in addition, all merely ecclesiastical seminaries were put under the inspection and approval of the State. Another provided a "royal court for ecclesiastical affairs," to review, among other things, all Church decisions "either emanating from any authority not recognised by the State laws, or transgressing the limits fixed by the civil power." These encroachments on the Church region were clearly inconsistent with the

1848 spread the same principles of religious equality (complicated, however, by the State endowment of religion or religions) everywhere to the north of the Alps. Belgium, like France, had adopted them long before. Holland now revised its constitution of 1815. It granted equal freedom of belief and worship to the members of

freedom provided by the Constitution. The *Landtag* accordingly attempted to reconcile them (on 5th April 1873), by adding to the clause given above, in Art. XV., which declares that "the Churches order and govern their own affairs independently," the words, "*but remain subject to the State laws and the State's legal supervision.*" So to the 18th clause above, abolishing nominations of clergy by the State, it was added, "*But the law regulates the function of the State as to the education, appointment, and dismissal of the clergy and Church officials, and it fixes the limits of the Church's power of discipline.*" These additions to either law made it unintelligible or inconsistent, and it was plain that the Government must either yield, or go farther still. In 1875, it went farther on both the practical and the theoretical side. One new law enacted that all salaries to Catholic clergy should be suspended till they signed a declaration that they would obey the State regulations; while another transferred the administration of Catholic revenues from ecclesiastics to a Catholic but elective and lay board. And on 10th April 1875, the *Landtag* in one day *abolished the three articles of the Constitution* (Nos. xv., xvi., and xviii.) which two years before they had tried partially to amend. All legal obstacles were thus removed, and there was nothing to defend the Church (during a struggle which lasted till 1880) but the passive resistance of its members standing on their Church ground. But this defence was found sufficient. The Catholic laity recognised their own priests, even when suspended by the Government, and declined to recognise others; and both priests and laity insisted on the Church regulating its own theological education. At last, after eight bishoprics and four hundred parishes were left nominally vacant, according to the new legislation, both parties, and Prussia especially, became weary of the struggle. In 1880 and 1881, the May laws were suspended, and, after negotiations with Pope Leo XIII. (who had succeeded the aged Pius IX. in 1878), they were to a large extent repealed. By this change, completed in the meantime on 29th April 1887, the obligation of civil marriage and the vesting of Catholic property in the laity was retained, but the legislative advances into the territory of proper church administration, including the education required for the priesthood, were departed from. The blank in the Constitution of 1850, however, remained unfilled up, though the object with which the deletion was made must be held to have failed. This, it will be remembered, affects the freedom of the Evangelical or Protestant Church also. That Church, on the other hand, about the same time received from the State the long-promised synodal or presbyterian Constitution for its congregations; and any stirring of life in the limbs would sooner or later influence the development of the whole organism.

all religions ; and, while guaranteeing a continuance of the endowments and salaries which some of them already possessed, it offered similar emoluments to others who should apply. The new *régime* of concurrent endowment was made more tolerable to the Reformed Church here, as in Germany and France, by its having relaxed or abolished the obligation to creed, not only of its members, but of its pastors, in Holland, at the expense of a considerable secession (Free Church, 1834–38). Later on (1857) all religious instruction was there excluded from the national schools, and still later (1876) the theological faculties have been removed from the universities, retaining only chairs for the history and philosophy of religion. (Theology proper is now taught by the National Synod, as by the Roman Catholic Church, out of its endowments, and by the Free Reformed Church, in less rationalistic form, from its voluntary contributions.) In Switzerland, the other ancient stronghold of Calvinism, the continental movement of 1848 was preceded by civil war, arising out of the religious question. The Helvetic Republic (which, as we saw, proclaimed religious freedom) had been replaced in 1815 by the old confederation of independent and aristocratic cantons.[1] After 1830 these became more democratic in constitution, and the opposition to the administration of the Jesuits as educators in the seven Catholic cantons led to the latter combining in a defensive league. The Diet declared this unconstitutional, and a short campaign ended in the Constitution of 1848, by which Switzerland became almost a federal State, not unlike that of America. It provided (sec. 44) free exercise of the worship of "the recognised Christian confessions" — *i.e.* Catholic and Protestant— throughout Switzerland, but excluded the Jesuits and affiliated orders.[2] Under this freedom of worship (which has since been

[1] Alexander Vinet (whose life-long devotion to the rights of individual conscience, against authoritative officialism on the one hand, and democratic majorities on the other, has made it impossible, in a volume like this, to omit his name) wrote his first work on the subject at Basle in 1826. He died in 1847.

[2] A revision of the Constitution in 1874 makes *all* religious confessions free,

generalized), the Protestant cantons have salaried Reformed Churches, for the membership of most of which no qualification is required but to be citizens of the State, Churches with more definite confessions being, of course, tolerated. That the two ancient Protestant republics should now accept the modern doctrine of religious freedom was, however, not surprising—the accession of Germany was more so. Still more strange was it that **Austria**, even while struggling with revolting nationalities on the side both of Italy and Hungary, found it necessary for it also to embody in the very first words of its Constitution of 1849 the same general principles of liberty of conscience. It begins :

"1. The full enjoyment of political liberty and the right of domestic exercise of the religious confession are guaranteed to every one. The enjoyment of civil and political rights is independent of the religious confession, but that religious confession shall not be allowed to interfere with the political duties of the citizens.

"2. Every Church and religious society, if recognised by law, has the right of a common public exercise of its religion.

"3. Science and scientific instruction are free.

"4. The general education of the people is to be provided for by public institutions. The instruction in religion in the national schools is to be taken care of by the respective Churches or religious associations. The State has the supreme control over the affairs of instruction and education."

From the Atlantic to the Danube, the general principles which in 1789 had reached Europe from England by way of America seemed now to be accepted, and that without any violence of opposition. Even **Turkey**, at a somewhat later date, advanced upon the same course. Liberty of worship had long been conceded to seven creeds, including Latins, Greeks, Protestants, and Jews. But their proselytism of Moslems was confronted by the

while providing that disputes caused by new ones created, or by schisms, may be brought before the federal authorities. The Jesuits are still interdicted ; and public and gratuitous education is to be provided by the cantons. The attempt, however, to enforce this, in the sense of non-religious education, failed in 1882, when voted upon in a *referendum* (plebiscite).

death-penalty of the Koran, till in 1856, after the Crimean war, the Sultan abolished that barrier, and more recently the fullest religious liberty has been proclaimed throughout his contracted dominions.[1] **Russia** alone remained and remains immovable. In 1842 she codified her Fundamental Laws, No. 40 of which declares that the Eastern and Orthodox Church is "the first-in-rank, and dominant faith" in the empire, and that "the emperor, as a Christian sovereign, is the supreme defender and guardian of the dogmas of the dominant faith." Under these provisions, freedom of thought and proselytism have again and again been exposed to severe persecution, within the Church as without, for the emperor, the Fundamental Law adds, is "the preserver of orthodoxy and of all good order *within* the Church. In this sense he is called the head of the Church," which he governs through the Synod.[2] Outside Russia proper, however, the general policy of the empire, as in the case of the pagan powers of old, is tolerance of the subject peoples and their faiths, reserving always the right to act otherwise for public reasons. The supremacy of the State over the Eastern Church has often been referred to historically as Byzantinism. But even in the days of Theodosius and Justinian that supremacy was never so acknowledged or defined as it has been by Russia in the nineteenth century—in the very age when the independence of the two societies was receiving from the rest of Europe unexampled recognition.

Yet continental Europe, which in the general theory of the just

[1] The Treaty of Berlin, 13th July 1878, embodies the Sultan's declaration, guaranteeing to members of all creeds in the Ottoman empire not only freedom of organization and of worship, but equal access to civil rights, offices, and honours.

[2] He is also Church legislator. For while Law 45 says, "In the government of the Church the autocratic power acts through the Most Holy Governing or Directing Synod" instituted by it, Law 49 explains that the origination of laws proceeds *either* "from the special intention and direct command of His Supreme Majesty," or from the ordinary course of affairs in the Synod suggesting some legislation. But in the latter case the Synod "subjects its projects, according to the established order, to the supreme judgment of His Majesty." See *Code of Russian Law*, ed. 1859, by M. Theodore Malicutin.

relations of Church and State seemed to have outrun Britain, if not America, has found itself most seriously hampered in the practical working of that theory by its own traditions. In some of the smaller States of Germany the reaction after 1848 went so far as the express re-enactment of the provision of the Peace of Westphalia, that "no other religion shall be tolerated" than the one selected by the State. And even where this did not happen, as in the greater countries of Europe, the habit of bureaucracy, of over-government, of paternal and preventive police, has been too strong to give fair play to the principles announced in their Constitutions. In all of these lands, detailed regulations and restrictions, and the necessity of applying at every step for "authorization," impede religious associations and their worship in a way which in this country would be held intolerable. Nor are the religions selected to be "recognised" free from the like fetters. On the contrary, the privileges granted them by the State as "corporations" or otherwise, and the endowments extended to them, however equally, by it, have tended to prolong into the present century their former position of dependence. The lawyers, too, have everywhere been slow to displace the rules which they had accumulated under a system of national authority over religion in favour of the simpler principles of freedom. Thus in France they have generally adhered to the old system of Gallicanism, and the superintendence over *les cultes* with which it burdened the State, even after 1848, was more in accordance with the arbitrary power of the Bourbons and the Napoleons than with the principles of 1789.[1] So in Germany. The theory of a definite and encompassing relation of the State

[1] *E.g.* Dupin's *Manual of the Public Ecclesiastical Law of France*, a well-known Gallican treatise, ignores the modern Constitutions. It founds, indeed, largely upon the old Roman law, by which associations, however harmless, are illegal unless authorized by the State. And it was at the instance of this learned jurist that the *Cour de Cassation* decided that the provision of the Charter of 1830, giving equal freedom in the exercise of worship to all, does not annul the law that more than twenty people cannot assemble for worship at a fixed hour without authorization beforehand.

to the Church—a supremacy over it (*Kirchenhoheit*) rather than a direct government of it (*Kirchenwaltung*), but including a right of supervision if not guardianship (*Aufsicht, Abwehr*)—is the ruling one among lawyers there.[1] It was held by high authorities in the law of Prussia, even during the twenty years after the Constitution of 1850 apparently made each Church independent (*selbständig*). The influence of Hegelianism was already declining; but the alliance between throne and altar, which Stahl had advocated at an earlier date, was now carried out with vigour by the new Lutheran or Confessionalist Churchmen (Hengstenberg and the *Kreuz-Zeitung*). In the case of the (united) Evangelical Church, such views postponed or prevented the concession to it of those organs and institutions which were necessary for its proposed self-government—if self-government were really desired. Down to 1870 the franchise was not conceded to congregations, while the position of the king as practical legislator of the Protestant Church seemed almost unchanged. The other Church which Prussian law acknowledges as a public corporation, is the Catholic Church, with its centre at Rome. In the case of this body the "Church supremacy" over it of a particular State was obviously a more inappropriate doctrine than even in that of the other. Yet in this case there is more necessity than in the other for the State jealously guarding its own rights. In English and American law these rights are provided for by the supremacy of the State over all individuals domiciled within it, no matter what associations they may choose to form or join,—a matter with which the State does not concern itself. Such a principle would have apparently enabled Prussia to conduct a defensive debate with Rome without intruding into the Church region on the one hand, and without attacking its own Constitution on the other. To both these unfortunate results, as we saw (note, p. 254), it was led by the opposite principle, and by an abortive attempt to assert the State's "Church supremacy."

[1] It is that of Richter's *Kirchenrecht*, a treasure-house of well-digested knowledge on the subject.

On the other side of the Alps a still greater agitation prevailed even before 1848, and for the first time for centuries **Italy** again became the centre of the world-wide problem. During the long pontificate of Gregory, the influence of Austria and the Papacy had crushed out the hope of religious and political reform. Gradually, however, Sardinia had gathered strength as a representative of moderate Liberalism, and Gioberti, in 1843, urged the Church to seek in that direction the "moral and political primacy" of a country which might still hope, but only by some such reconciliation, to be the throne of the world. In the midst of the excitement roused by such ideas the papal chair became vacant, and before the Austrian veto could be interposed, an Italian with Italian sympathies, Mastai Ferretti, was chosen under the name of Pius IX. His immediate amnesty to political prisoners and exiles roused popular enthusiasm to the highest pitch, and it seemed at last as if there was to be, in the sarcastic phrase of Metternich, a Liberal pope. While the national feeling surged against Austria, the political feeling extended far beyond the Alps, and a revolution took place in 1847 in Switzerland, by which the Jesuits were expelled. Suddenly, in February 1848, the unease of Europe was changed into universal excitement by the Paris Revolution. In Piedmont, Tuscany, Naples, and Rome constitutional government was promised, and the youth of Italy volunteered in crowds for the relief of Lombardy from the Austrian. The pope, already shrinking from the principles as well as the excesses of the Revolution, now refused to countenance the movement for a united or republican Italy. He fled to Gaeta ; and while Austria defeated Piedmont at Novara, and Russia helped to crush the insurrection of Hungary, the troops of Louis Napoleon besieged the Roman Commune. The Buonapartist President, while willing to anticipate other Powers in restoring his temporal rule to the pope, was very desirous that it should be exercised constitutionally. Pius IX., however, came back ruled by Jesuit and absolutist influences, and the *coup d'état* of December 1852

severed the new Napoleon from Liberalism, and made it necessary for him to rely upon the French clergy. They, on the other hand, finding their own religion only one of several now salaried in France, became from this point even more Ultramontane than they had been before. The German Catholic clergy, occupying at last nearly the same constitutional position, also steadily leaned towards Rome; and the pope took advantage of the triumph of the absolutist armies and of the accompanying reaction from the principles of 1848, to commence a movement of aggression all over the world. Among the earliest steps was the restoration of the old Catholic hierarchies in two Protestant countries, England in 1850 and Holland in 1852,—acts which called forth in both countries much popular feeling and violent protests. A concordat with Spain in 1851 recovered to the Church much property and some power. Negotiations were opened with several of the German States, and in Baden and Würtemberg these resulted in the passing of concordats, which, however, did not operate long. More important was the agreement and concordat with Austria. That empire had so far felt the influence of 1848 as to acknowledge the self-government not of one but of all Churches, subject to the laws of the State. It might have stood upon this general principle alongside of Prussia. But Prussia itself was now receding from Liberalism; and Austria, which had crushed the Revolution in Italy, seemed called to make a new alliance with the pope. The foundation for this was laid by two ordinances in 1850; and the concordat which followed in 1855 was intended to give the Catholic Church not the same rights merely with other religious bodies, but what it described as "all the rights and privileges which she must enjoy according to the commandment of God and the ecclesiastical laws."

But while the hierarchy was thus making advances in its relations with the temporal powers abroad, it was losing ground where it claimed temporal power itself—at home. Piedmont, in its Constitution of 1848, acknowledged Roman Catholicism as

the sole religion of the State, but other existing *cultes* were recognised and "authorized." And the legislation following upon this enacted the equal rights of all before the civil law, and the power of the courts of that law over ecclesiastics; the existence of civil marriage alongside of the religious rite, the disendowment of ecclesiastical and monastic sinecures, and the liberty of the press. But the States of the Church remained unreformed, and at the Congress of Paris in 1856, Cavour urged upon the Great Powers the condition of Italy as a whole. At Plombières in 1858 Louis Napoleon agreed to attack Austria and protect Italy "without shaking the power of the Holy Father;" but the inhabitants of the Legations at once threw off the pope's temporal power, and voted their annexation to the newly constituted kingdom of Italy. Rome and the Romagna still remained to him; but while the French emperor, supported by statesmen like the Protestant Guizot, expressed their sense of the value to Europe of the temporal power, and even announced to the Chambers that Italy shall "never" find itself at Rome, Italy itself had determined otherwise. The negotiations of Cavour and his successors with the pope, however, failed; and Louis Napoleon, by the Convention of September 1864, withdrew his troops from Rome only on condition of Piedmont respecting the temporal sovereignty of the Holy See. The Romans and Italians, like Mazzini and Garibaldi, refused to consider themselves bound by the agreement; but it kept things afloat for some years more, and made way for the final steps by which the Bishop of Rome was formally raised to the monarchy of the Western Church.

The first movement was the encyclical and Syllabus of 1864. In the former the now ageing pope repeated once more in express terms his own and his predecessor's condemnation of the "liberty of conscience" of the individual, and of its exercise, whether "by the voice" or by "the press." He added to it a Syllabus or collection of the principal errors of the time noted in his many previous utterances. Beginning with denouncing absolute rationalism, it goes on to its more moderate applications, especially to

matters ecclesiastical. Montalembert had the previous year once more urged upon Catholics the nineteenth-century doctrine of liberty and liberalism, and added in the words of Lacordaire, "If you, Catholics, demand liberty for yourselves alone, you will never get it. Give it in those countries where you are yourselves in power, and you will get it in those where others are so."[1] The Syllabus once more authoritatively rejected this idea; and while the fifty-fifth error branded by it is that "the Church ought to be separated (*sejungenda est*) from the State, and the State from the Church," the last condemned is, that "the Roman pontiff can and ought to come to a reconciliation and agreement with progress, with liberalism, and with modern civilisation."

The Syllabus was received with extreme disapprobation by the Catholic governments and populations, with whose Constitutions it is really at war. France forbade its bishops officially to promulgate it; but the hierarchy generally, as well as the mass of the clergy, were now Ultramontane and in sympathy with the manifesto. Two days before its publication the pope privately proposed a still stronger move — the calling of the Vatican Council to acknowledge his official supremacy and infallibility. It was not till the year 1867, however, that this project was made public, amid strong protests from French and German theologians. But already a more faithful prop than either France or Germany was struck from under the absolutist Church. **Austria-Hungary**, defeated at Sadowa, found it necessary to carry out her former promises, and now at last to govern her many allied peoples constitutionally. And the fundamental article of her Constitution of 1867 on this head is, "Full and entire liberty of religion and of conscience is guaranteed to every one. The enjoyment of civil and political rights is independent of religious profession; but the exercise of religious liberty is not to prejudice the performance of civil duties." Every Church "or religious society recognised by the law," it is provided, has the right of public worship, of teaching

[1] But see note on p. 249.

in its own schools, and of administering its internal affairs "in full independence," and it retains also the endowments which have been destined to its use ; but, "like every other society, it is subject to the laws of the State." Unrecognised confessions, it is added, may meet and worship, but only in private buildings. The last great Catholic State has thus a second time adopted the modern principles of liberty, and by the laws of 1868 they were applied in detail with much fairness to questions of mixed marriages and education, of conversion and proselytism, and of the relations to religious communities of individuals. Of course, this was inconsistent with the concordat which had been entered into by the State only in 1855 ; but that was not formally put an end to till a memorable opportunity about to arise, and the relations it dealt with have been since revised so as to leave Catholicism in a relation to the State not unlike what it enjoys in France.[1] This great defection from Ultramontanism was felt more severely at Rome because it followed not only the change in the German balance of power, but the addition of Venice and the Quadrilateral to the hostile kingdom of Italy. Garibaldi's insurrection, however, was suppressed under the influence of France, where the empress had become a stronger friend of the Church than her husband ; and every preparation was made for the coming **Council of the Vatican.**

It met in December 1869, with a larger attendance of bishops than had met at any council before. Of these the great majority

[1] This revision, in 1874, is expressly founded upon the constitutional law of 1867 above quoted. Under it the Catholic Church, though classed as one among other bodies, is still in Austria a privileged and public body "recognised by the law," and its peculiar relation to the Roman bishop, deeply modified by the Vatican Council, may explain or excuse the special relations to the State which still remain. For the emperor-king nominates the bishops, and the State has a veto on other appointments and on proposed offices, retains an influence in ecclesiastical education, has large rights in Church parochial property, and controls that of the monastic orders. The pope protested on the one hand, the Liberals on the other; but the measure passed by the vote of 224 deputies against 71. The constitutional toleration and endowment of other bodies remain.

were in favour of the decrees of infallibility and supremacy proposed from Rome; and the 150 who at the preliminary discussion voted against their publication gradually broke down under pressure, or left the council with a protest, until at the public vote on 18th July 1870 there were only two dissentients. The retroactive effect of the doctrine on that day announced is not without interest. It runs back through all the centuries reviewed in these pages, and passes judgment on the acts of Christians in innumerable conjunctures in the past in a sense very different from that accepted by history. In particular, it makes it most difficult for the present Church to escape from the doctrines of civil intolerance so often authoritatively laid down. But its main purpose is to bind the present to the future. Even the decree that there is infallibility when a pope defines "a doctrine regarding faith or morals to be held by the universal Church," would not be so grave taken by itself. But that which precedes it demands the obedience to him of all the faithful, not only in matters of faith and morals, where infallibility comes in, "but also in those which belong to the discipline and government of the Church through the whole world." This seems to leave no room for self-government by the people, or even for the old episcopal independence; and it brings the whole Church members immediately under the now irresponsible ruler.

The change would have been great in any case; but, as it happened, it was immediately followed by European explosion as well as protest, and by the loss of the temporal power. Twelve days after the decrees above quoted were promulgated on 18th July 1870, a despatch from Austria-Hungary announced that the act "placed the relations of Church and State on a wholly new basis." The Church had both put forward claims larger than were competent to her, and had concentrated them in the person of one man. "A change so radical revolutionizes the conditions hitherto existing," and the emperor-king therefore intimated that the concordat of 1855, concluded under the previous state of things, was no longer valid, and was abrogated. Prussia had already refused,

through Count Bismarck, to open diplomatic negotiations with the council,[1] and had instead authorized a warning to the German bishops, that absolutist changes in the organization of the Church might affect its relation to the State.[2] France also had spoken doubtfully; but the Curia trusted in its ruler's friendliness and good fortune, and the very day after the Council's utterance of 18th July the French Declaration of War was delivered at Berlin. On 2nd September the second empire collapsed at Sedan; the French garrison had already been withdrawn from Rome; Jules Favre on the part of the new Government released Italy from the bargain of 1864; and at the end of the same month of September the votes of Rome and its territory were cast for its annexation as capital of the kingdom of Italy. The temporal sovereignty thus passed away at the very moment when the spiritual sovereignty was made irresponsible and absolute.

The assumption by the Italian and Roman people of their own temporal power, has been more strongly protested against by the see of Rome than any other act of modern Constitutionalism. But in point of fact the constitution of Italy is more favourable to the Church than that of any of the greater continental Powers. In the others, except Russia, there is strictly no State Church.[3] In Italy "the Catholic Apostolic and Roman religion is the sole religion of the State." So, too, as to the claims of the chief of

[1] It could only be done, he wrote Count Arnim, upon a footing which belongs to the past, and had a meaning only when the State stood confronted with the Catholic Church as the one and only Church.

[2] In point of fact, the Old Catholics who, with the celebrated Dr. Döllinger of Munich at their head, were cut off from the unity of Rome because of their refusal to acquiesce in the "innovations" of the Syllabus and the Vatican, were at once recognised by Prussia and in Germany generally as still Catholic, and entitled to their share of the Church funds. They have still a position as members of a theological faculty in some of the Universities, but the mass of the people have gone with the hierarchy, and students for the priesthood are forbidden to attend their prelections.

[3] That is, according to the constitution. But the State, in France, Germany, and Austria-Hungary, allies itself in public solemnities with the Church of the majority, though others are recognised, and even endowed by it, and the members of all faiths are guaranteed equal rights.

that religion. In Britain and America he would be a private gentleman, venerated by those who had selected him as chief of their religion, and protected like all others by the law. In France and Austria he would be the chief of the largest of those religions, Christian and other, which are recognised and salaried by the State. In Italy the Guarantee Laws of 1870–71 give the bishop of the capital the dignity, inviolability, and personal prerogatives of a sovereign, though without a kingdom; an untrammelled correspondence with his hierarchy outside; and the perpetual possession of great palaces, with the wealth of centuries in their halls. In addition, too, to the contributions from the whole Catholic world, they provide an annual dotation from the State of three and a quarter million of *lire*. But Pius IX. and his successor Leo XIII. have hitherto refused to touch this money. They feel rightly that the exceptional privilege granted to their Church by Italy is chiefly valuable as a step to cosmopolitan and universal influence. They would prefer an international guarantee. But the only Church guarantee which the European democracy has hitherto favoured is that of equal laws for all.

The Church and State question in the present day is in any case likely to assume an aspect of *cosmopolitanism* such as it has not had since the days of the Holy Roman Empire. The world is shrinking into small compass, and each man has now a visible interest in all parts of it. Even labour finds it impossible to fix its demand upon any one country, until it has sounded the level, European or world-wide, on which it elsewhere rests. And the rights of conscience and of religious brotherhood are still less capable of being confined within national limits. Nationalism, indeed, has played a great part as an intermediate stage in our modern civilisation. But it has obviously no final answer to give to any of the more important questions. And all ideas upon Church and State, and human welfare generally, like gases poured into different sides of the same chamber, must henceforth meet and mix in the one European democracy.

This cosmopolitan aspect became prominent about the year with which our record closes. Congresses of International Socialism sat in the capitals of Europe for some years before 1870. That year, indeed, which brought the challenge of both these principles to the front, brought it also for the time to a close. But socialism as well as internationalism is sure to be influential in the future. As a phase of nineteenth-century democracy, it has hitherto held itself apart from religion and the Church in all their forms. This neutrality may not always continue. There is no reason why it should. The Christian Church was itself a huge experiment in voluntary socialism. And State socialism would sooner or later raise the old questions in a new form. If the State in the interest of all its members is entitled to cut down the individual's rights of property, it is natural next to ask why it should not, in the same interest, exert pressure upon his rights of conscience. If the mass of the new democracy comes to accept a system of belief or of unbelief, is it not entitled to establish that system, and to suppress hostile organizations which call themselves Churches? At home this danger for the future is favoured by a recurrent tendency, derived from the less respectable side of our national history, to found toleration on indifference. But that tendency is not so likely to make its way in the new world which has been called into existence "to redress the balance of the old," or indeed among any part of the English race now spreading round the globe,—a race in which individual character is still largely fortified by individual conviction. On the Continent the protection against the same risk hitherto has been the general recognition, since the Revolution, of an absolute right of religious toleration. But that recognition is too seldom found associated there with personal or religious conviction, and it often takes the form of mere intolerance of (religious) intolerance. In the event, therefore, of the European democracy pressing to an unlimited extent its tendency to legislate for the community against the individual, two dangers will arise. On the one hand, it may legislate against all religion,

at least in an organized or ecclesiastical form, as injurious to the State. On the other hand, when any part of Europe shall be again swept by a warm wave of belief (as the South was in the fourth century, and the North in the sixteenth), the majorities will be strongly impelled, on the same general principle of the common good, to legislate against irreligious or dissenting minorities.

There is no reason whatever to believe that the great drama of Church and State, whose evolution occupied the stage of Europe for a thousand years, has yet closed. The Church in the future is to have mighty and manifold relations to society as a whole. And many will ask why it should not be related to that coercive form of society which we call the State. The motives which in the past attracted the highest minds of Christendom to intolerance in the interest of the masses whom they ruled, will in our day appeal to the masses themselves. And the mere perception by the democracy of a better principle which those centuries have evolved, will not save it. It will need, in addition, the practical assimilation of the principle, in a stedfast and sometimes a heroic surrender of the will of the people to the rights of its minorities. At many points, too, in that arduous future it will have occasion to remember the teachings of the past. History assures us, that while the cheapest of all virtues is a toleration founded on indifference, the true toleration has been in times of crisis a high attainment—the privilege of souls pure and strong by nature, or lifted above themselves by religious conviction.

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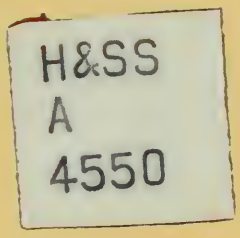

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